

The Kansas City Southern Railway Company  
Louisiana & Arkansas Railway Company

114 West 11th Street, Kansas City, Missouri 64105

RICHARD P. BRUENING  
General Counsel

10401

RECORDATION NO. .... Filed 1425

S-149AC10

May 25, 1979

MAY 29 1979 - 12 30 PM

Hon. H. G. Homme, Jr.  
Secretary  
Interstate Commerce Commission  
Washington, DC 20423

INTERSTATE COMMERCE COMMISSION Date MAY 29 1979

Fee \$ 50.00

ICC Washington, D. C.

RE: Conditional Sale Agreement dated as of  
April 15, 1979, among Bethlehem Steel  
Corporation, General Motors Corporation  
(Electro-Motive Division), Pullman, Inc.  
Louisiana & Arkansas Railway Company and  
The Kansas City Southern Railway Company;  
and Assignment thereof to Chemical Bank,  
as Assignee.

Dear Sir:

Pursuant to Section 20c of the Interstate Commerce Act  
and to the Commission's Rules and Regulations thereunder, as  
amended, Louisiana & Arkansas Railway Company transmits herewith,  
six (6) executed counterparts of the above mentioned Condi-  
tional Sale Agreement (CSA) and Agreement and Assignment (the  
Assignment), for filing and recording with the Interstate Commerce  
Commission. Said CSA and Assignment cover 200 box cars, six  
locomotives and 200 open top hopper cars.

The names and addresses of the parties to the CSA are:

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Vendors: Bethlehem Steel Corporation  
Bethlehem, PA 18016

General Motors Corporation  
(Electro-Motive Division)  
LaGrange, IL 60525

Pullman, Inc. (Pullman-Standard Division)  
200 South Michigan Avenue  
Chicago, IL 60604

Purchaser: Louisiana & Arkansas Railway Company  
114 West 11th Street  
Kansas City, MO 64105

Guarantor: The Kansas City Southern Railway Company  
114 West 11th Street  
Kansas City, MO 64105

The names and addresses of the parties to the Assignment are:

Vendors: Bethlehem Steel Corporation  
Bethlehem, PA 18016

General Motors Corporation  
(Electro-Motive Division)  
LaGrange, IL 60525

Pullman, Inc. (Pullman-Standard Division)  
200 South Michigan Avenue  
Chicago, IL 60604

Assignee: Chemical Bank  
55 Water Street  
New York, NY 10041

A general description of the equipment covered by the CSA and Assignment is:

<u>Type</u>	<u>Quantity</u>	<u>Railroad Road Nos.</u>
Open Top Hopper Cars (Bethlehem)	200	(See Schedule attached)
100 ton 50' XM Box Cars (Pullman)	200	(See Schedule attached)
3500 HP SD 40X Locomotive (GM)	4	KCS 700 through KCS 703
3000 HP GP 40-2 Locomotive (GM)	2	KCS 900 and KCS 901

The above identified CSA and Assignment has not been previously recorded with the Interstate Commerce Commission.

**Interstate Commerce Commission**  
Washington, D.C. 20423

5/29/79

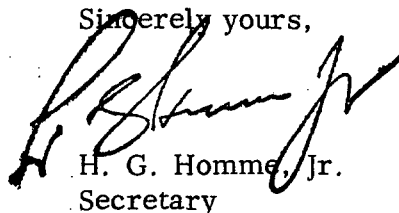
**OFFICE OF THE SECRETARY**

Richard P. Bruening  
General Counsel  
The Kansas City Southern RYW Co.  
Louisiana & Arkansas RYW Co.  
114 West 11th Street  
Kansas City, Missouri 64105

Dear Sir:

The enclosed document(s) was recorded pursuant to the provisions of Section 11303 of the Interstate Commerce Act, 49 U.S.C. 11303, on 5/29/79 at 12:30pm , and assigned recordation number(s). 10401

Sincerely yours,



H. G. Homme, Jr.  
Secretary

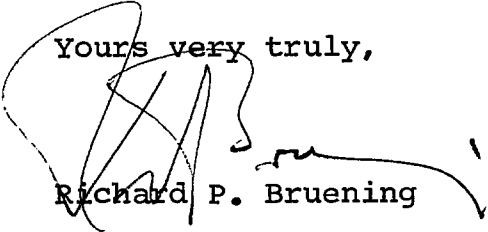
Enclosure(s)

SE-30  
(3/79)

Kansas City Southern Lines Draft in the amount of \$50.00 is enclosed to cover the filing fee.

We request that all copies of the CSA and Assignment not required for your files be marked with the Commission filing and stamp and returned to the party tendering same.

Yours very truly,



Richard P. Bruening

RPB:cm  
Encl.

## NEW CARS

OPEN TOP HOPPER CARS  
Bethlehem Steel Corporation (Builder)

## STENCILED

KCS 220001	KCS 220566	KCS 221121	KCS 221686
KCS 220019	KCS 220574	KCS 221139	KCS 221694
KCS 220027	KCS 220582	KCS 221147	KCS 221708
KCS 220035	KCS 220591	KCS 221155	KCS 221716
KCS 220043	KCS 220604	KCS 221163	KCS 221724
KCS 220051	KCS 220612	KCS 221171	KCS 221732
KCS 220060	KCS 220621	KCS 221180	KCS 221741
KCS 220078	KCS 220639	KCS 221198	KCS 221759
KCS 220086	KCS 220647	KCS 221201	KCS 221767
KCS 220094	KCS 220655	KCS 221210	KCS 221775
KCS 220108	KCS 220663	KCS 221228	KCS 221783
KCS 220116	KCS 220671	KCS 221236	KCS 221791
KCS 220124	KCS 220680	KCS 221244	KCS 221805
KCS 220132	KCS 220698	KCS 221252	KCS 221813
KCS 220141	KCS 220701	KCS 221261	KCS 221821
KCS 220159	KCS 220710	KCS 221279	KCS 221830
KCS 220167	KCS 220728	KCS 221287	KCS 221848
KCS 220175	KCS 220736	KCS 221295	KCS 221856
KCS 220183	KCS 220744	KCS 221309	KCS 221864
KCS 220191	KCS 220752	KCS 221317	KCS 221872
KCS 220205	KCS 220761	KCS 221325	KCS 221881
KCS 220213	KCS 220779	KCS 221333	KCS 221899
KCS 220221	KCS 220787	KCS 221341	KCS 221902
KCS 220230	KCS 220795	KCS 221350	KCS 221911
KCS 220248	KCS 220809	KCS 221368	KCS 221929
KCS 220256	KCS 220817	KCS 221376	KCS 221937
KCS 220264	KCS 220825	KCS 221384	KCS 221945
KCS 220272	KCS 220833	KCS 221392	KCS 221953
KCS 220281	KCS 220841	KCS 221406	KCS 221961
KCS 220299	KCS 220850	KCS 221414	KCS 221970
KCS 220302	KCS 220868	KCS 221422	KCS 221988
KCS 220311	KCS 220876	KCS 221431	KCS 221996
KCS 220329	KCS 220884	KCS 221449	
KCS 220337	KCS 220892	KCS 221457	
KCS 220345	KCS 220906	KCS 221465	
KCS 220353	KCS 220914	KCS 221473	
KCS 220361	KCS 220922	KCS 221481	
KCS 220370	KCS 220931	KCS 221490	
KCS 220388	KCS 220949	KCS 221503	
KCS 220396	KCS 220957	KCS 221511	
KCS 220400	KCS 220965	KCS 221520	
KCS 220418	KCS 220973	KCS 221539	
KCS 220426	KCS 220981	KCS 221546	
KCS 220434	KCS 220990	KCS 221554	
KCS 220442	KCS 221007	KCS 221562	
KCS 220451	KCS 221015	KCS 221571	
KCS 220469	KCS 221023	KCS 221589	
KCS 220477	KCS 221031	KCS 221597	
KCS 220485	KCS 221040	KCS 221601	
KCS 220493	KCS 221058	KCS 221619	
KCS 220507	KCS 221066	KCS 221627	
KCS 220515	KCS 221074	KCS 221635	
KCS 220523	KCS 221082	KCS 221643	
KCS 220531	KCS 221091	KCS 221651	
KCS 220540	KCS 221104	KCS 221660	
KCS 220558	KCS 221112	KCS 221678	

## NEW CARS

## STENCILED

KCS 170003  
KCS 170011  
KCS 170020  
KCS 170028  
KCS 170046  
KCS 170054  
KCS 170062  
KCS 170071  
KCS 170089  
KCS 170097  
KCS 170101  
KCS 170119  
KCS 170127  
KCS 170135  
KCS 170143  
KCS 170151  
KCS 170160  
KCS 170178  
KCS 170186  
KCS 170194  
KCS 170208  
KCS 170216  
KCS 170224  
KCS 170232  
KCS 170241  
KCS 170259  
KCS 170267  
KCS 170275  
KCS 170283  
KCS 170291  
KCS 170305  
KCS 170313  
KCS 170321  
KCS 170330  
KCS 170348  
KCS 170356  
KCS 170364  
KCS 170372  
KCS 170381  
KCS 170399  
KCS 170402  
KCS 170411  
KCS 170429  
KCS 170437  
KCS 170445  
KCS 170453  
KCS 170461  
KCS 170470  
KCS 170495  
KCS 170496  
KCS 170500  
KCS 170519  
KCS 170526  
KCS 170534  
KCS 170542  
KCS 170551

## BOX CARS

Pullman Incorporated (Builder)

KCS 170569  
KCS 170577  
KCS 170585  
KCS 170593  
KCS 170607  
KCS 170615  
KCS 170623  
KCS 170631  
KCS 170640  
KCS 170658  
KCS 170666  
KCS 170674  
KCS 170682  
KCS 170691  
KCS 170704  
KCS 170712  
KCS 170721  
KCS 170739  
KCS 170747  
KCS 170755  
KCS 170763  
KCS 170771  
KCS 170780  
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KCS 170844  
KCS 170852  
KCS 170861  
KCS 170879  
KCS 170887  
KCS 170895  
KCS 170909  
KCS 170917  
KCS 170925  
KCS 170933  
KCS 170941  
KCS 170950  
KCS 170968  
KCS 170976  
KCS 170984  
KCS 170992  
KCS 171000  
KCS 171018  
KCS 171026  
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KCS 171077  
KCS 171085  
KCS 171093  
KCS 171107  
KCS 171115

KCS 171123  
KCS 171131  
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KCS 171158  
KCS 171166  
KCS 171174  
KCS 171182  
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KCS 171204  
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KCS 171794  
KCS 171806  
KCS 171816  
KCS 171824  
KCS 171832  
KCS 171841  
KCS 171859  
KCS 171867  
KCS 171875  
KCS 171883  
KCS 171891  
KCS 171905  
KCS 171913  
KCS 171921  
KCS 171930  
KCS 171948  
KCS 171956  
KCS 171964  
KCS 171972  
KCS 171981  
KCS 171999

10401  
RECORDATION NO. .... Filed 1425

MAY 29 1979 -12 30 PM

INTERSTATE COMMERCE COMMISSION

[CS&M 2043-923]

CONDITIONAL SALE AGREEMENT

Dated as of April 15, 1979,

among each of

BETHLEHEM STEEL CORPORATION,  
GENERAL MOTORS CORPORATION (ELECTRO-MOTIVE DIVISION)  
and PULLMAN INCORPORATED (Pullman Standard Division)

and

LOUISIANA & ARKANSAS RAILWAY COMPANY

and

THE KANSAS CITY SOUTHERN RAILWAY COMPANY,  
the Guarantor

AGREEMENT AND ASSIGNMENT

Dated as of April 15, 1979,

among each of

BETHLEHEM STEEL CORPORATION,  
GENERAL MOTORS CORPORATION (ELECTRO-MOTIVE DIVISION)  
and PULLMAN INCORPORATED (Pullman Standard Division)

and

CHEMICAL BANK,  
as Agent.

## CONDITIONAL SALE AGREEMENT

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CONDITIONAL SALE AGREEMENT dated as of April 15, 1979, among each of BETHLEHEM STEEL CORPORATION, GENERAL MOTORS CORPORATION (Electro-Motive Division) and PULLMAN INCORPORATED (Pullman Standard Division) (hereinafter called collectively the "Builders" or severally the "Builder", or collectively or severally the "Vendor" as the context may require, all as more particularly set forth in Article 1 hereof), and LOUISIANA & ARKANSAS RAILWAY COMPANY, a Delaware corporation (the "Railroad") and THE KANSAS CITY SOUTHERN RAILWAY COMPANY, a Missouri corporation (the "Guarantor").

The Builders severally have agreed to construct, sell and deliver to the Railroad, and the Railroad has agreed to purchase, the equipment described in Schedule B hereto (the "Equipment");

NOW, THEREFORE, in consideration of the mutual agreements hereinafter set forth, the parties hereto do hereby agree as follows:

ARTICLE 1. Assignment; Certain Definitions. The term "Vendor", whenever used in this Agreement, means, before any assignment of any of their rights hereunder, the respective corporations named in Item 1 of Schedule A hereto and any successor or successors for the time being to their manufacturing properties and businesses, and, after any such assignment, both any assignee or assignees for the time being of such particular assigned rights as regards such rights, and also any assignor as regards any rights hereunder that are retained or excluded from any assignment. The parties hereto contemplate that this Agreement shall be assigned by the Builders to Chemical Bank, acting as agent (the "Agent") under a Finance Agreement dated as of the date hereof (the "Finance Agreement"). The term "Builder", whenever used in this Agreement, means, both before and after any such assignment, the respective corporations (as to the units of Equipment to be constructed by such corporation and sold hereunder) named in Item 1 of Schedule A hereto and any successor or successors for the time being to their respective manufacturing properties and businesses.

The rights and obligations of the Builders under

this Agreement are several in accordance with their interests and not joint. Accordingly, whenever this Agreement, by the use of such designation as "the Vendor", "such Builder" or other similar term, confers a right or imposes an obligation upon any corporation named in Item 1 of Schedule A hereto or its successor, such right or obligation shall be construed to accrue to or to be enforceable against only the specific corporation furnishing the units of Equipment giving rise to such right or obligation and its successors as herein provided.

ARTICLE 2. Construction and Sale. Pursuant to this Agreement, each Builder shall construct the units of the Equipment to be constructed by it as described in Schedule B hereto (such units of Equipment with respect to such Builder being hereinafter called "its Equipment") at its plant set forth in said Schedule B and will sell and deliver to the Railroad, and the Railroad will purchase from such Builder and accept delivery of and pay for (as hereinafter provided), such Equipment, each unit of which shall be constructed in accordance with the specifications referred to in Schedule B hereto and in accordance with such modifications thereof as may be agreed upon in writing between such Builder and the Railroad (which specifications and modifications, if any, are hereinafter called the "Specifications"). The design, quality and component parts of each unit of the Equipment shall conform, on the date of completion of manufacture of each thereof, to all Department of Transportation and Interstate Commerce Commission requirements and specifications and to all standards recommended by the Association of American Railroads reasonably interpreted as being applicable to equipment of the character of such units of the Equipment and each unit of the Equipment (except to the extent referred to in Article 8 hereof) will be new railroad equipment.

ARTICLE 3. Inspection and Delivery. Each Builder will deliver the units of its Equipment to the Railroad at the place or places specified in Schedule B hereto (or if said Schedule B does not specify a place or places, at the place or places designated from time to time by the Railroad), freight charges, if any, prepaid, in accordance with the delivery schedule set forth in Schedule B hereto; provided, however, that no Builder shall have any obligation to deliver any unit of Equipment hereunder at any time after the commencement of any proceedings specified in clause

(c) or (d) of Article 17 hereof or if any event of default (as described in said Article 17), or event which with the lapse of time and/or demand could constitute such an event of default, shall have occurred and be continuing.

Each Builder's obligation as to time of delivery is subject, however, to delays resulting from causes beyond such Builder's reasonable control, including but not limited to acts of God, acts of government such as embargoes, priorities and allocations, war or war conditions, riot or civil commotion, sabotage, strikes, differences with workmen, accidents, fire, flood, explosion, damage to plant, equipment or facilities, delays in receiving necessary materials or delays of carriers or subcontractors.

Notwithstanding the preceding provisions of this Article 3, any Equipment not delivered, accepted and settled for pursuant to Article 4 hereof on or before the Cut-Off Date (as defined in Article 4 hereof) shall be excluded herefrom. If any unit or units of Equipment shall be excluded from this Agreement pursuant to the preceding sentence, the Builder or Builders of such unit or units and the Railroad shall execute an agreement supplemental hereto limiting this Agreement to the units of Equipment not so excluded herefrom. If a Builder's failure to deliver Equipment so excluded from this Agreement resulted from one or more of the causes set forth in the preceding paragraph, the Railroad shall nevertheless be obligated to accept such Equipment and pay the full purchase price therefor, determined as provided in this Agreement, if and when such Equipment shall be completed and delivered by such Builder, such payment to be in cash on the delivery of such Equipment, either directly or, in case the Railroad shall arrange therefor, by means of a conditional sale agreement, equipment trust or such other appropriate method of financing as the Railroad shall determine and as shall be reasonably acceptable to such Builder.

During construction, the Equipment shall be subject to inspection and approval by the authorized inspectors of the Railroad and each Builder shall grant to such authorized inspectors reasonable access to its plant. Each Builder shall inspect all materials used in the construction of its Equipment in accordance with the standard quality control practices of such Builder. Upon completion of each unit or of a number of units of the Equipment, such unit or units shall be presented to an inspector of the Railroad for inspection at the place specified for delivery of such unit or units, and if each such unit conforms to the Specifica-

tions, requirements and standards applicable thereto, such inspector or an authorized representative of the Railroad shall execute and deliver to such Builder a certificate of acceptance (the "Certificate of Acceptance") stating that such unit or units have been inspected and accepted on behalf of the Railroad and are marked in accordance with Article 7 hereof; provided, however, that such Builder shall not thereby be relieved of its warranty referred to in Article 15 hereof.

On delivery of each such unit hereunder at the place specified for delivery, the Railroad will assume the risk of, and shall not be released from its obligations hereunder in the event of, any damage to or the destruction or loss of such unit.

ARTICLE 4. Purchase Price and Payment. The base price or prices per unit of the Equipment are set forth in Schedule B hereto. Such base price or prices are subject to such increase or decrease as is agreed to by the appropriate Builder and the Railroad. The term "Purchase Price" as used herein shall mean the base price or prices as so increased or decreased, including without limitation any increase pursuant to the presentation of a supplemental invoice as hereinafter provided, plus freight charges, if any.

For the purpose of making settlement, the Equipment of each Builder shall be divided into such number of groups of units of the Equipment, delivered to and accepted by the Railroad (each such group being hereinafter called a "Group"), as such Builder and the Railroad may agree to.

The Railroad hereby acknowledges itself to be indebted to the Vendor in the amount of, and hereby promises to pay in cash to the Vendor at such place as the Vendor may designate, the Purchase Price of the Equipment, as follows:

(a) on each Closing Date (as hereinafter defined) the amount, if any, by which (x) the Purchase Price of all units of the Equipment for which settlement has theretofore or is then being made, as stated in the invoice or invoices presented (including the supplemental invoice or invoices hereinafter provided for) in respect of such Closing Date (said invoiced prices being herein called the "Invoiced Purchase Prices"), exceeds (y) the sum of \$20,866,650 and any amount or amounts previously paid or payable with respect to the Invoiced Purchase Prices pursuant to this subparagraph (a); and

(b) in 30 consecutive equal semiannual installments, as hereinafter provided, an amount equal to the aggregate of the Invoiced Purchase Prices for all the Equipment less the amount paid or payable with respect thereto pursuant to subparagraph (a) of this paragraph (the aggregate of said installments being hereinafter called the "Indebtedness").

In the event that on any Closing Date the final Purchase Price of any Group has not been finally determined, the invoice presented may be for an estimated Purchase Price (as evidenced by the words "Interim Invoice" written on the face of such invoice), subject to adjustment upon determination of the final Purchase Price, and a supplemental invoice may be presented by the appropriate Builder at least 10 days prior to any subsequent Closing Date for settlement on such subsequent Closing Date for any increase in the Purchase Price; it being agreed by such Builder that any prior preliminary invoice or invoices presented by such Builder shall be in an amount not in excess of the final Purchase Price of such Group. If a supplemental invoice is presented to the Railroad by the Builder at least 10 days prior to any subsequent Closing Date with respect to any Group of Equipment, such supplemental invoice shall be settled for at such subsequent Closing Date. If a supplemental invoice is presented to the Railroad by a Builder after, or less than 10 business days prior to, the Closing Date when all units of the Equipment of the Builder shall have been delivered, accepted and settled for, but prior to the Repayment Date (as defined in Paragraph 4 of the Finance Agreement), the Railroad shall designate a Closing Date with respect to such supplemental invoice. If a supplemental invoice is presented by a Builder after the Repayment Date, it shall be paid in cash by the Railroad to such Builder in accordance with the terms of the original purchase order given by the Railroad and accepted by such Builder in respect of its Equipment.

The installments of the Indebtedness shall be payable semiannually on March 1 and September 1 in each year commencing on March 1, 1980, to and including September 1, 1994. The unpaid portion of the Indebtedness shall bear interest from the respective Closing Dates on which such Indebtedness was incurred at the rate of 10% per annum payable to the extent accrued, on March 1 and September 1 in each year, commencing March 1, 1980.

The term "Closing Date" with respect to any Group of the Equipment shall mean such date, on or after May 15, 1979, and prior to February 1, 1980 (the "Cut-Off Date"), not more than ten business days following presentation by the Builder of the Equipment in such Group to the Railroad of the invoice or a supplemental invoice, and with respect to any Group of the Equipment, the Certificate or Certificates of Acceptance for such Group, as shall be fixed by the Railroad by written notice delivered to the Vendor at least five business days prior to the Closing Date designated therein. The term "business days" as used herein means calendar days, excluding Saturdays, Sundays and any other day on which banking institutions in New York, New York, are authorized or obligated to remain closed.

All interest under this Agreement shall be calculated on the basis of a 360-day year of twelve 30-day months.

The Railroad will pay, to the extent legally enforceable, interest at the rate of 11% per annum upon all amounts remaining unpaid after the same shall have become due and payable pursuant to the terms hereof, anything herein to the contrary notwithstanding.

All payments provided for in this Agreement shall be made in such coin or currency of the United States of America as at the time of payment shall be legal tender for the payment of public and private debts. Except as provided in Article 8 hereof, the Railroad shall not have the privilege of prepaying any installment of Indebtedness prior to the date it becomes due.

ARTICLE 5. Taxes. All payments to be made by the Railroad hereunder will be free of expense to the Vendor for collection or other charges and will be free of expense to the Vendor with respect to the amount of any local, state, Federal or foreign taxes (other than net income, gross receipts [except gross receipts taxes in the nature of or in lieu of sales or use taxes], excess profits and similar taxes) or license fees, assessments, charges, fines or penalties hereafter levied or imposed upon or in connection with or measured by, this Agreement or any sale, use, payment, shipment, delivery or transfer of title under the terms

hereof (all such expenses, taxes, license fees, assessments, charges, fines and penalties being hereinafter called "Impositions"), all of which Impositions the Railroad assumes and shall pay on demand. The Railroad will also pay promptly all Impositions which may be imposed upon the Equipment delivered to it or for the use or operation thereof or upon the earnings arising therefrom or upon the Vendor solely by reason of its interest therein and will keep at all times all and every part of the Equipment free and clear of all Impositions which might in any way affect the title or interests of the Vendor or result in a lien upon any part of the Equipment; provided, however, that the Railroad shall be under no obligation to pay any Impositions of any kind so long as it is contesting in good faith and by appropriate legal proceedings such Impositions and the nonpayment thereof does not, in the opinion of the Vendor, adversely affect the title or interests of the Vendor in or to the Equipment or otherwise under this Agreement. If any such Impositions shall have been charged or levied against the Vendor directly and paid by the Vendor, the Railroad shall reimburse the Vendor upon presentation of an invoice therefor, and any amounts so paid by the Vendor shall be secured by and under this Agreement; provided, however, that the Railroad shall not be obligated to reimburse the Vendor for any Impositions so paid unless the Vendor shall have been legally liable with respect thereto (as evidenced by an opinion of counsel for the Vendor) or unless the Railroad shall have approved the payment thereof.

ARTICLE 6. Title to the Equipment. The Vendor shall and hereby does retain its title and interests in the Equipment until the Railroad shall have made all its payments under this Agreement and shall have kept and performed all its agreements herein contained, notwithstanding the delivery of the Equipment to and the possession and use thereof by the Railroad as provided in this Agreement. Any and all additions to the Equipment and any and all replacements of the Equipment and of parts thereof and additions thereto shall constitute accessions to the Equipment and shall be subject to all the terms and conditions of this Agreement and included in the term "Equipment" as used in this Agreement.

Except as otherwise specifically provided in Article 8 hereof, when and only when the full indebtedness in respect of the Purchase Price of the Equipment, together with



interest and all other payments as herein provided, shall have been paid, and all the Railroad's obligations herein contained shall have been performed by the Railroad, absolute right to the possession of, title to and property in the Equipment shall pass to and vest in the Railroad without further transfer or action on the part of the Vendor. However, the Vendor, if so requested by the Railroad at that time, will (a) execute a bill or bills of sale for the Equipment transferring and releasing its title to and interests therein to the Railroad, or upon its order, free of all claims, liens, interests and encumbrances created or retained hereby and deliver such bill or bills of sale to the Railroad at its address referred to in Article 22 hereof, (b) execute and deliver at the same place, for filing, in all necessary public offices, such instrument or instruments in writing as may be necessary or appropriate in order then to make clear upon the public records such transfer and release and (c) pay to the Railroad any money paid to the Vendor pursuant to Article 8 hereof and not theretofore applied as therein provided. The Railroad hereby waives and releases any and all rights, existing or that may be acquired, in or to the payment of any penalty, forfeit or damages for failure to execute and deliver such bill or bills of sale or instrument or instruments or to file any certificate of payment in compliance with any law or statute requiring the filing of the same, except for failure to execute and deliver such bill or bills of sale or instrument or instruments or to file such certificate within a reasonable time after written demand by the Railroad.

ARTICLE 7. Marking of the Equipment. The Railroad will cause each unit of the Equipment to be kept numbered with its identifying number as set forth in Schedule B hereto, or in the case of Equipment not there listed such identifying number as shall be set forth in any amendment or supplement hereto extending this Agreement to cover such Equipment, and will keep and maintain, plainly, distinctly, permanently and conspicuously marked on each side of each unit, in letters not less than one inch in height, the words "Ownership Subject to a Security Agreement Filed with the Interstate Commerce Commission", or the name of the Vendor followed by the words "Agent, Owner", or other appropriate markings approved by the Vendor, with appropriate changes thereof and additions thereto as from time to time may be required by law in order to protect the Vendor's title and interests in the Equipment and its rights under this Agreement. The Railroad will not place any such unit in operation or exercise any control or dominion over the same until such

markings have been made thereon and will replace promptly any such markings which may be removed, defaced, obliterated or destroyed. The Railroad will not change the number of any unit of the Equipment except in accordance with a statement of new number or numbers to be substituted therefor, which statement previously shall have been filed with the Vendor by the Railroad and filed by the Railroad in all public offices where this Agreement shall have been filed.

Except as provided in the preceding paragraph, the Railroad will not allow the name of any person, association or corporation to be placed on any unit of the Equipment as a designation that might be interpreted as a claim of ownership; provided, however, that the Railroad may cause the Equipment to be lettered with the names or initials or other insignia of the Railroad or its affiliates.

ARTICLE 8. Casualty Occurrences; Investments; Insurance. In the event that any unit of the Equipment shall be worn out, obsolete, lost, stolen, destroyed, irreparably damaged or otherwise rendered permanently unfit for use from any cause whatsoever, or taken or requisitioned by condemnation or otherwise (such occurrences being hereinafter called "Casualty Occurrences"), the Railroad shall fully inform the Vendor in regard thereto promptly after it has knowledge of such Casualty Occurrence. When the aggregate Casualty Value (as defined herein) of all units having suffered a Casualty Occurrence (exclusive of units having suffered a Casualty Occurrence with respect to which a payment shall have been made to the Vendor pursuant to this Article 8) hereunder shall exceed \$200,000, the Railroad shall, on the next date for the payment of principal or interest hereunder occurring 30 days after it has knowledge of such event, pay to the Vendor a sum equal to the aggregate Casualty Value of such units of the Equipment as of the date of such payment and shall file with the Vendor a certificate of an officer of the Railroad setting forth such Casualty Value.

So long as no event of default shall have occurred and be continuing, any money paid to the Vendor pursuant to the preceding paragraph of this Article 8 shall be used, as the Railroad shall direct in a written instrument filed with the Vendor within 30 days but no less than 10 days prior to the due date of the next semiannual installment of Indebtedness, in whole or in part, to prepay installments of Indebtedness or, in whole or in part, toward the cost of a unit or units of standard gauge railroad equipment (other

than passenger or work equipment) first put into service no earlier than the date of this Agreement, to replace units suffering a Casualty Occurrence. Any unit of replacement equipment shall have a remaining useful life (as evidenced by a certificate of a mechanical officer of the Railroad) at least as long as that which the Equipment being replaced would have had, but for the Casualty Occurrence. If such replacement equipment shall be equipment theretofore used in railroad service, the Railroad shall deliver to the Vendor a certificate of an officer of the Railroad that the cost of such equipment does not exceed the lesser of the fair value thereof or the original cost thereof less depreciation at a rate of 1/15 of such original cost for each year in service. In case any money is applied pursuant to this Article 8 to prepay Indebtedness, it shall be so applied to reduce each installment of Indebtedness thereafter falling due pro rata.

The Casualty Value of each unit of the Equipment (other than a replacement unit) shall be deemed to be that amount which bears the same ratio to the original Purchase Price thereof (less, in the event that the Railroad shall have made any payment or payments under the provisions of subparagraph (a) of the third paragraph of Article 4 hereof, an amount which bears the same ratio to the aggregate of all such payments as the original Purchase Price of such unit bears to the original aggregate Purchase Price of all the Equipment) as the unpaid Indebtedness (without giving effect to any prepayments then or theretofore made pursuant to this Article 8) as of the date payment is made with respect to such Casualty Occurrence bears to the original Indebtedness. The Casualty Value of each replacement unit shall be deemed to be that amount which bears the same ratio to the portion of the cost thereof paid by the Vendor as the unpaid Indebtedness (without giving effect to any prepayments then or theretofore made pursuant to this Article 8) as of the date payment is made with respect to such Casualty Occurrence bears to the unpaid Indebtedness (without giving effect to any such prepayments) as of the date of acquisition by the Vendor of such replacement unit.

The Railroad will cause any replacement unit or units to be marked as provided in Article 7 hereof. Any and all such replacements of Equipment shall constitute accessions to the Equipment and shall be subject to all appropriate terms and conditions of this Agreement as though part of the original Equipment delivered hereunder and shall

be included in the term "Equipment" as used in this Agreement; provided, however, that nothing herein shall result in any Builder having any liability or obligation with respect to any replacement unit or units not manufactured by it. Title to all such replacement units shall be free and clear of all liens and encumbrances except the liens permitted by the second paragraph of Article 13 hereof and shall be taken initially and shall remain in the name of the Vendor subject to the provisions hereof, and the Railroad shall execute, acknowledge, deliver, file, record or deposit all such documents and do any and all such acts as may be necessary to cause such replacement units to come under and be subject to this Agreement and to protect the title and interests of the Vendor in such replacement units. All such replacement units shall be guaranteed and warranted in like manner as is customary at the time for similar equipment.

Whenever the Railroad shall file with the Vendor a written direction to apply amounts toward the cost of any replacement unit or units, the Railroad shall file therewith in addition to any settlement documents which may be required pursuant to Article 16 hereof:

(1) a certificate of an officer of the Railroad certifying that such replacement unit is standard gauge railroad equipment (other than passenger or work equipment) first put into service no earlier than the date of this Agreement, and has been marked as required by the provisions of this Article 8 and certifying, in the event such replacement unit is new equipment, the cost of such replacement unit and, in the event such replacement unit shall be equipment theretofore used in railroad service, that the cost thereof to the Vendor does not exceed the lesser of the fair value thereof or the original cost thereof less depreciation at a rate equal to 1/15 of such original cost for each year in service, and that such replacement equipment has a remaining useful life at least as long as that which the Equipment being replaced would have had but for the Casualty Occurrence; and

(2) an opinion of counsel for the Railroad that security title to such replacement unit is vested in the Vendor, free and clear from all claims, liens, security interests and other encumbrances except the rights of the Railroad under this Agreement, and that such unit has come under and become subject to this Agreement and all necessary filings have been made to perfect the title and interests of the Vendor therein.

So long as no event of default shall have occurred and be continuing, any money paid to the Vendor pursuant to this Article 8 shall, if the Railroad shall in writing so direct, be invested, pending its application as hereinabove provided, in such of the following as may be specified in such written direction: (i) direct obligations of the United States of America or obligations for which the full faith and credit of the United States is pledged to provide for the payment of principal and interest, (ii) open market commercial paper rated A-1 or A-2 by Standard & Poor's Corporation or prime-1 by NCO/Moody's Commercial Paper Division of Moody's Investors Service, Inc., or the successor of either of them, or (iii) certificates of deposit of domestic commercial banks in the United States of America having total assets in excess of \$1,000,000,000, in each case maturing in not more than one year from the date of such investment or repurchase agreements with such banks to be collateralized by obligations set forth in (i) above (such investments being herein called "Investments"). Any such obligations shall from time to time be sold and the proceeds reinvested in such Investments as the Railroad may in writing direct. Any interest received by the Vendor on any Investments shall be held by the Vendor and applied as hereinafter provided. Upon any sale or the maturity of any Investments, the proceeds thereof, plus any interest received by the Vendor thereon, up to the cost (including accrued interest) thereof, shall be held by the Vendor for application pursuant to this Article 8, and any excess shall be paid to the Railroad. If such proceeds (plus such interest) shall be less than such cost, the Railroad will promptly pay to the Vendor an amount equal to such deficiency. The Railroad will pay all expenses incurred by the Vendor in connection with the purchase and sale of Investments.

If any unit of the Equipment is removed for repairs other than running repairs or becomes unsuitable or not necessary for continued use by the Railroad in the Railroad's business or operations, such occurrence shall, upon the election of the Railroad evidenced by written notice to the Vendor, constitute a Casualty Occurrence subject to the provisions of this Article 8; provided, however, that the Railroad shall direct any money paid to the Vendor in respect thereof to be applied only toward the cost of replacement equipment and not to prepay any installment of Indebtedness.

If one or more events of default shall have occurred and be continuing, all money held by the Vendor pursuant

to this Article 8 (including, for this purpose, Investments) shall be applied by the Vendor as if such money were money received upon the sale of Equipment pursuant to Article 18 hereof.

In order to facilitate the sale or other disposition of any Equipment suffering a Casualty Occurrence, the Vendor shall, upon request of the Railroad, after payment by the Railroad of a sum equal to the Casualty Value of such Equipment, execute and deliver to the Railroad or the Railroad's vendee, assignee or nominee, a bill of sale (without warranties) for such Equipment, and such other documents as may be required to release such Equipment from the terms and scope of this Agreement, in such form as may be reasonably requested by the Railroad.

The Railroad will at all times prior to the payment of the full indebtedness in respect of the Purchase Price of the Equipment, together with interest thereon and all other payments required hereby, at its own expense, cause to be carried and maintained insurance in respect of the Equipment at the time subject hereto to the extent and against risks comparable to those insured against by other railroads on similar equipment and, in any event, comparable to those insured against by the Railroad on similar equipment owned by it.

ARTICLE 9. Obligations of Guarantor. The Guarantor, for value received, hereby unconditionally guarantees to the Vendor the due and punctual performance of all obligations of the Railroad under this Agreement and the Finance Agreement and unconditionally guarantees to the Vendor that all sums payable by the Railroad under this Agreement and the Finance Agreement (including, but not limited to, all sums payable by the Railroad with respect to the Purchase Price of the Equipment) will be promptly paid when due in accordance with the provisions of this Agreement, together with interest thereon as herein provided, whether at stated maturity or by declaration or otherwise, and in case of default by the Railroad in any such obligations or payment the Guarantor agrees punctually to perform or pay the same, irrespective of any enforcement against the Railroad of any of the rights of the Vendor hereunder.

The Guarantor hereby agrees that its obligation hereunder shall be absolute and unconditional, irrespective of the genuineness, validity, regularity or enforceability

of this Agreement or any other circumstance which might otherwise constitute a legal or equitable discharge of a surety or guarantor. The Guarantor hereby waives diligence, presentment, demand of payment, protest, any notice of any assignment hereof in whole or in part or of any default hereunder and all notices with respect to this Agreement and all demands whatsoever hereunder. No waiver by the Vendor of any of its rights hereunder and no action by the Vendor to enforce any of its rights hereunder or failure to take, or delay in taking, any such action shall affect the obligations of the Guarantor hereunder.

In the event that the Guarantor shall make any payments to the Vendor on account of its guaranty hereunder, the Guarantor shall be subrogated to all rights of the Vendor against the Railroad and with respect to the Equipment to the extent of the amount so paid, but the rights of the Guarantor against the Railroad and with respect to the Equipment pursuant to such subrogation shall be subordinate in all respects to the rights of the Vendor and such rights of the Guarantor shall be enforceable only after, and subject to, full payment to the Vendor of all amounts payable hereunder whether or not then due.

ARTICLE 10. Maintenance; Compliance with Laws.  
The Railroad will at all times maintain the Equipment or cause the Equipment to be maintained in good order and repair at its own expense.

During the term of this Agreement, the Railroad will at all times comply in all respects with all laws of the jurisdictions in which its operations involving the Equipment may extend, with the interchange rules of the Association of American Railroads and with all lawful rules of the Department of Transportation, Interstate Commerce Commission and any other legislative, executive, administrative or judicial body exercising any power or jurisdiction over the Equipment, to the extent that such laws and rules affect the title, operation or use of the Equipment, and in the event that such laws or rules require any alteration or replacement of or addition to any part on any unit of the Equipment, the Railroad will conform therewith, at its own expense; provided, however, that the Railroad may, in good faith, contest the validity or application of any such law or rule in any reasonable manner which does not, in the reasonable opinion of the Vendor, adversely affect the property or rights of the Vendor under this Agreement.

ARTICLE 11. Reports and Inspections. On or before March 31 in each year, commencing with the year 1980, the Railroad shall furnish to the Vendor an accurate statement signed by an officer of the Railroad (a) setting forth as at the preceding December 31 the amount, description and numbers of all units of the Equipment that have suffered a Casualty Occurrence during the preceding 12 months (or since the date of this Agreement in the case of the first such statement) or that have been withdrawn from use pending repairs (other than running repairs) and such other information regarding the condition and state of repair of the Equipment as the Vendor may reasonably request and (b) stating that, in the case of all Equipment repaired or repainted during the period covered by such statement, the numbers and markings required by Article 7 hereof have been preserved or replaced. The Vendor shall have the right, by its agents, to inspect the Equipment and the Railroad's records with respect thereto at such reasonable times as the Vendor may request during the term of this Agreement.

ARTICLE 12. Possession and Use; Leasing. The Railroad, so long as an event of default shall not have occurred under this Agreement and be continuing, shall be entitled to the possession of the units of Equipment and the use thereof upon the lines of railroad owned or operated by it either alone or jointly with others and whether under lease or otherwise, or upon the lines of railroad owned or operated by any railroad company controlled by, or under common control with, the Railroad, or over which it has trackage rights, or upon connecting and other carriers in the usual interchange of traffic or pursuant to run-through agreements, and may enter into a written lease of one or more units of the Equipment for a term not exceeding one year with any affiliate or any other solvent United States corporation, from and after delivery of such units of Equipment by the Builder of such units to the Railroad, but only upon and subject to all the terms and conditions of this Agreement; provided, however, that any such lease permitted hereunder shall state expressly that the rights of the lessee thereunder are subject and subordinate to the rights and remedies of the Vendor under this Agreement; and, provided, further, however, that neither the Railroad nor any such lessee shall be entitled to assign the Equipment for use or service outside of the United States of America except in normal interchange.

ARTICLE 13. Prohibition Against Liens. The Railroad will pay or discharge any and all sums claimed by any party from, through or under the Railroad or its successors



or assigns which, if unpaid, might become a lien, charge or security interest on or in the Equipment, or any unit thereof, equal or superior to the Vendor's title and interests therein; provided, however, that the Railroad shall be under no obligation to pay or discharge any such claim so long as it is contesting in good faith and by appropriate legal proceedings such claim and the nonpayment thereof does not, in the opinion of the Vendor, adversely affect the title or interests of the Vendor in or to the Equipment or otherwise under this Agreement. Any amounts paid by the Vendor in discharge of liens, charges or security interests upon the Equipment shall be secured by and under this Agreement.

This covenant will not be deemed breached by reason of liens for taxes, assessments or governmental charges or levies, in each case not due and delinquent, or undetermined or inchoate materialmen's, mechanics', workmen's, repairmen's or other like liens arising in the ordinary course of business and, in each case, not delinquent.

ARTICLE 14. Railroad's Indemnities. The Railroad will indemnify, protect and hold harmless the Vendor from and against all losses, damages, injuries, liabilities, claims and demands whatsoever, regardless of the cause thereof, and expenses in connection therewith, including counsel fees, arising out of retention by the Vendor of title and interests in the Equipment, the use and operation thereof by the Railroad during the period when said title and interests remain in the Vendor or the transfer of said title and interests in the Equipment by the Vendor pursuant to any of the provisions of this Agreement. This covenant of indemnity shall continue in full force and effect notwithstanding the full payment of all sums due under this Agreement, or the satisfaction, discharge or termination of this Agreement in any manner whatsoever.

ARTICLE 15. Patent Indemnities; Builder's Warranty. Each Builder's warranty of material and workmanship and its patent indemnification agreement are set forth in Items 2 and 3, respectively, of Schedule A hereto. The patent indemnification agreements of each Builder shall continue in full force and effect notwithstanding the full payment of all sums due under this Agreement, or the satisfaction, discharge or termination of this Agreement in any manner whatsoever.

ARTICLE 16. Assignments. The Railroad will not sell, assign, transfer or otherwise dispose of its rights under this Agreement or, except as provided in Article 12

hereof, transfer the right to possession of any unit of the Equipment without first obtaining the written consent of the Vendor which shall not be unreasonably withheld.

All or any of the rights, benefits and advantages of the Vendor under this Agreement, including the right to receive the payments herein provided to be made by the Railroad, may be assigned by the Vendor and reassigned by any assignee at any time or from time to time. No such assignment shall subject any assignee to, or relieve any Builder from, any of the obligations of such Builder to construct and deliver its Equipment in accordance with this Agreement or to respond to its warranties and indemnities referred to in Article 15 hereof, or relieve the Railroad of any of its obligations to such Builder under Articles 2, 3, 4, 5, 14 and 15 hereof, Schedule A hereto and this Article 16 or of any other obligation which, according to its terms or context, is intended to survive an assignment.

Upon any such assignment either the assignor or the assignee shall give written notice to the Railroad, together with a counterpart or copy of such assignment, stating the identity and post office address of the assignee, and such assignee shall by virtue of such assignment acquire all the assignor's right, title and interest in and to the Equipment and this Agreement, or in and to a portion thereof, as the case may be, subject only to such reservations as may be contained in such assignment. From and after the receipt by the Railroad of the notification of any such assignment, all payments thereafter to be made by the Railroad under this Agreement to the Vendor shall, to the extent so assigned, be made to the assignee in such manner as it may direct.

The Railroad recognizes that it is the custom of railroad equipment manufacturers to assign conditional sale agreements and understands that the assignment of this Agreement, or of some of or all the rights of the Vendor hereunder, is contemplated. The Railroad expressly represents, for the purpose of assurance to any person, firm or corporation considering the acquisition of this Agreement or of all or any of the rights of the Vendor hereunder and for the purposes of inducing such acquisition, that in the event of such assignment by the Vendor as hereinbefore provided, the rights of such assignee to the entire unpaid Indebtedness

or such part thereof as may be assigned, together with interest thereon, as well as any other rights hereunder which may be so assigned, shall not be subject to any defense, setoff, counterclaim or recoupment whatsoever arising out of any breach of any obligation of a Builder with respect to the Equipment of such Builder or the manufacture, construction, delivery or warranty thereof, or with respect to any indemnity herein contained, nor subject to any defense, setoff, counterclaim or recoupment whatsoever arising by reason of any other indebtedness or liability at any time owing to the Railroad by a Builder. Any and all such obligations, howsoever arising, shall be and remain enforceable by the Railroad against and only against the respective Builders.

The Railroad will (a) in connection with each settlement for the Equipment subsequent to such assignment, deliver to the assignee, at least five business days prior to the Closing Date for the Group fixed in the notice by the Railroad, all documents required by the terms of such assignment to be delivered to such assignee in connection with such settlement, in such number of counterparts or copies as may reasonably be requested, and (b) furnish to such assignee such number of counterparts of any other certificate or document required by the Vendor as may reasonably be requested.

In the event that on or prior to the Cut-Off Date, this Agreement (a) shall not have been assigned by a Builder to the Agent under the Finance Agreement, to an institutional investor or to an agent acting for a group of institutional investors under a finance agreement providing for deposit with the agent by the institutional investors of an amount equal to the Indebtedness, by an instrument of assignment providing for payment to such Builder of an amount equal to the Indebtedness, or (b) shall have been so assigned by a Builder and the assignee shall not make payment to such Builder with respect to units of its Equipment or any supplemental invoice as provided in the instrument making such assignment or such assignee shall not be obligated, pursuant to the terms of such instrument of assignment, to make such payment, such Builder will promptly notify the Railroad of such event and, if such amount shall not have been previously paid by such assignee, the parties hereto will, upon the request of such Builder, enter into an appropriate written agreement with such Builder excluding from this Agreement those units of Equipment of such Builder for which the aggregate Purchase Price shall not have been received, but

fully preserving such Builder's security interest in such units in the manner acceptable to such Builder, and the Railroad will, not later than 90 days after the date such payment was due and prior to the Cut-Off Date, pay or cause to be paid to such Builder the aggregate unpaid Purchase Price of such units of its Equipment, together with interest from the date such payment was due to the date of payment by the Railroad at the highest prime rate of interest charged by any of the four New York City banks having the largest total assets in effect on the date such payment was due.

ARTICLE 17. Defaults. In the event that any one or more of the following events of default shall occur and be continuing, to wit:

(a) the Railroad shall fail to pay in full any indebtedness in respect of the Purchase Price of the Equipment or any other sum payable by the Railroad as provided in this Agreement within ten days after payment thereof shall be due hereunder; or

(b) the Railroad shall, for more than 30 days after the Vendor shall have demanded in writing performance thereof, fail or refuse to comply with any covenant, agreement, term or provision of this Agreement, or of any agreement entered into concurrently herewith relating to the financing of the Equipment on its part to be kept or performed or to make provision satisfactory to the Vendor for such compliance; or

(c) a petition for reorganization under Title 11 of the United States Code, as now constituted or as may be hereafter amended, shall be filed by or against the Railroad or the Guarantor and, unless such petition shall have been dismissed, nullified, stayed or otherwise rendered ineffective (but then only so long as such stay shall continue in force or such ineffectiveness shall continue), all the obligations of the Railroad or the Guarantor, as the case may be, under this Agreement shall not have been (and shall not continue to have been) duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees appointed (whether or not subject to ratification) in such proceedings in such manner that such obligations shall have the same status as obligations incurred by such trustee or trustees, within

60 days after such petition shall have been filed; or

(d) any other proceedings shall be commenced by or against the Railroad or the Guarantor for any relief under any bankruptcy or insolvency law, or law relating to the relief of debtors, readjustments of indebtedness, reorganizations, arrangements, compositions or extensions (other than a law which does not permit any readjustment of the Indebtedness payable hereunder), and, unless such proceedings shall have been dismissed, nullified, stayed or otherwise rendered ineffective (but then only so long as such stay shall continue in force or such ineffectiveness shall continue), all the obligations of the Railroad or the Guarantor, as the case may be, under this Agreement shall not have been (and shall not continue to have been) duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees or receiver or receivers appointed (whether or not subject to ratification) for the Railroad or the Guarantor, as the case may be, or for its property in connection with any such proceedings in such manner that such obligations shall have the same status as obligations incurred by such trustee or trustees or receiver or receivers, within 60 days after such proceedings shall have been commenced; or

(e) the Railroad shall make or suffer any unauthorized assignment or transfer of this Agreement or any interest herein or any unauthorized transfer of the right to possession of any unit of the Equipment;

then at any time after the occurrence of such an event of default the Vendor may, upon written notice to the Railroad and the Guarantor and upon compliance with any mandatory legal requirements then in force and applicable to such action by the Vendor, declare (hereinafter called a "Declaration of Default") the entire indebtedness in respect of the Purchase Price of the Equipment, together with the interest thereon then accrued and unpaid, immediately due and payable, without further demand, and thereafter the aggregate of the unpaid balance of such indebtedness and interest shall bear interest from the date of such Declaration of Default at the rate per annum specified in Article 4 hereof as being applicable to amounts remaining unpaid after becoming due and payable,

to the extent legally enforceable. The Vendor shall thereupon be entitled to recover judgment for the entire unpaid balance of the indebtedness in respect of the Purchase Price of the Equipment so payable, with interest as aforesaid, and to collect such judgment out of any property of the Railroad or the Guarantor wherever situated.

The Vendor may at its election waive any such event of default and its consequences and rescind and annul any Declaration of Default by notice to the Railroad and the Guarantor in writing to that effect, and thereupon the respective rights of the parties shall be as they would have been if no such event of default had occurred and no Declaration of Default had been made. Notwithstanding the provisions of this paragraph, it is expressly understood and agreed by the Railroad and the Guarantor that time is of the essence of this Agreement and that no such waiver, rescission or annulment shall extend to or affect any other or subsequent default or impair any rights or remedies consequent thereon.

ARTICLE 18. Remedies. At any time during the continuance of a Declaration of Default, the Vendor may, subject to compliance with any mandatory legal requirements then in force and applicable to the action to be taken by the Vendor, take or cause to be taken by its agent or agents immediate possession of the Equipment, or one or more of the units thereof, without liability to return to the Railroad or the Guarantor any sums theretofore paid and free from all claims whatsoever, except as hereinafter in this Article 18 expressly provided, and may remove the same from possession and use of the Railroad or any other person and for such purpose may enter upon the Railroad's premises or any other premises where the Equipment may be located and may use and employ in connection with such removal any supplies, services and aids and any available trackage and other facilities or means of the Railroad or the Guarantor.

In case the Vendor shall demand possession of the Equipment pursuant to this Agreement and shall reasonably designate a point or points upon the premises of the Railroad or Guarantor for the delivery of the Equipment to the Vendor, the Railroad shall, at its own expense, forthwith and in the usual manner (including, but not by way of limitation, giving prompt telegraphic and written notice to the Association of American Railroads and all railroads to which any part of the Equipment has been interchanged to return the Equipment so interchanged), cause (a) the Equipment

to be moved to such point or points on its or the Guarantor's lines as shall be designated by the Vendor and shall there deliver the Equipment or cause it to be delivered to the Vendor and (b) the Equipment to be moved to such interchange point or points of the Railroad or the Guarantor as shall be designated by the Vendor upon any sale, lease or other disposal of all or any part of the Equipment by the Vendor. At the option of the Vendor, the Vendor may keep the Equipment on any of the lines or premises of the Railroad or the Guarantor until the Vendor shall have leased, sold or otherwise disposed of the same, and for such purpose the Railroad and the Guarantor agree to furnish, without charge for rent or storage, the necessary facilities at any point or points selected by the Vendor reasonably convenient and to permit inspection of the Equipment by the Vendor, the Vendor's representatives and prospective purchasers and users. This agreement to deliver the Equipment and furnish facilities as hereinbefore provided is of the essence of the agreement between the parties, and, upon application to any court of equity having jurisdiction in the premises, the Vendor shall be entitled to a decree against the Railroad or the Guarantor requiring specific performance hereof. The Railroad and the Guarantor hereby expressly waive any and all claims against the Vendor and its agent or agents for damages of whatever nature in connection with any retaking of any unit of the Equipment in any reasonable manner.

At any time during the continuance of a Declaration of Default, the Vendor (after retaking possession of the Equipment as hereinbefore in this Article 18 provided) may at its election and upon such notice as is hereinafter set forth retain the Equipment in satisfaction of the entire indebtedness in respect of the Purchase Price of the Equipment and make such disposition thereof as the Vendor shall deem fit. Written notice of the Vendor's election to retain the Equipment shall be given to the Railroad and the Guarantor by telegram or registered mail, addressed as provided in Article 22 hereof, and to any other persons to whom the law may require notice, within 30 days after such Declaration of Default. In the event that the Vendor should elect to retain the Equipment and no objection is made thereto within the 30-day period described in the second proviso below, all the Railroad's rights in the Equipment shall thereupon terminate and all payments made by the Railroad or the Guarantor may be retained by the Vendor as compensation for the use of the Equipment by the Railroad; provided, however, that if the Railroad, before the

expiration of the 30-day period described in the proviso below, should pay or cause to be paid to the Vendor the total unpaid balance of the indebtedness in respect of the Purchase Price of the Equipment, together with interest thereon accrued and unpaid and all other payments due under this Agreement as well as expenses of the Vendor in retaking possession of, removing and storing the Equipment and the Vendor's reasonable attorneys' fees, then in such event absolute right to the possession of, title to and property in the Equipment shall pass to and vest in the Railroad; provided, further, that if the Railroad or any other persons notified under the terms of this paragraph object in writing to the Vendor within 30 days from the receipt of notice of the Vendor's election to retain the Equipment, then the Vendor may not so retain the Equipment, but shall sell, lease or otherwise dispose of it or continue to hold it pending sale, lease or other disposition as hereinafter provided or as may otherwise be permitted by law. If the Vendor shall have given no notice to retain as hereinabove provided or notice of intention to dispose of the Equipment in any other manner, it shall be deemed to have elected to sell the Equipment in accordance with the provisions of this Article 18.

At any time during the continuance of a Declaration of Default, the Vendor, with or without retaking possession thereof, at its election and upon reasonable notice to the Railroad and to any other persons to whom the law may require notice of the time and place, may sell the Equipment, or any unit thereof, free from any and all claims of the Railroad or any other party claiming from, through or under the Railroad, at law or in equity, at public or private sale and with or without advertisement as the Vendor may determine; provided, however, that if, prior to such sale and prior to the making of a contract for such sale, the Railroad should tender full payment of the total unpaid balance of the indebtedness in respect of the Purchase Price of the Equipment, together with interest thereon accrued and unpaid and all other payments due under this Agreement as well as expenses of the Vendor in retaking possession of, removing, storing, holding and preparing the Equipment for, and otherwise arranging for, the sale and the Vendor's reasonable attorneys' fees, then in such event absolute right to the possession of, title to and property in the Equipment shall pass to and vest in the Railroad. The proceeds of such sale, less the attorneys' fees and any other expenses incurred by



the Vendor in retaking possession of, removing, storing, holding, preparing for sale and selling the Equipment, shall be credited on the amount due to the Vendor under the provisions of this Agreement.

Any sale hereunder may be held or conducted at such place or places and at such time or times as the Vendor may specify, in one lot and as an entirety or in separate lots and without the necessity of gathering at the place of sale the property to be sold, and in general in such manner as the Vendor may determine. The Vendor may bid for and become the purchaser of the Equipment, or any unit thereof, so offered for sale. The Railroad and the Guarantor shall be given written notice of such sale not less than ten days prior thereto, by telegram or registered mail addressed to the Railroad and the Guarantor as provided in Article 22 hereof. If such sale shall be a private sale (which shall be deemed to mean only a sale where an advertisement for bids has not been published in a newspaper of general circulation or a sale where less than 40 offerees have been solicited in writing to submit bids), it shall be subject to the right of the Railroad to purchase or provide a purchaser, within ten days after notice of the proposed sale price, at the same price offered by the intending purchaser or a better price. In the event that the Vendor shall be the purchaser of the Equipment, it shall not be accountable to the Railroad (except to the extent of surplus money received as hereinafter provided in this Article 18), and in payment of the purchase price therefor the Vendor shall be entitled to have credited on account thereof all or any part of the sums due to the Vendor from the Railroad hereunder. From and after the date of any such sale, the Railroad shall pay to the Vendor the per diem interchange for each unit of Equipment which shall not have been assembled, as hereinabove provided, by the date of such sale for each day from the date of such sale to the date of delivery to the purchaser at such sale.

Each and every power and remedy hereby specifically given to the Vendor shall be in addition to every other power and remedy hereby specifically given or now or hereafter existing at law or in equity, and each and every power and remedy may be exercised from time to time and simultaneously and as often and in such order as may be deemed expedient by the Vendor. All such powers and remedies shall be cumulative, and the exercise of one shall not be deemed a waiver of the right to exercise any other or others. No delay or omission of the Vendor in the exercise of any such power

or remedy and no renewal or extension of any payments due hereunder shall impair any such power or remedy or shall be construed to be a waiver of any default or an acquiescence therein. Any extension of time for payment hereunder or other indulgence duly granted to the Railroad shall not otherwise alter or affect the Vendor's rights or the Railroad's obligations hereunder. The Vendor's acceptance of any payment after it shall have become due hereunder shall not be deemed to alter or affect the Railroad's obligations or the Vendor's rights hereunder with respect to any subsequent payments or default therein.

If, after applying all sums of money realized by the Vendor under the remedies herein provided, there shall remain any amount due to it under the provisions of this Agreement, the Railroad shall pay the amount of such deficiency to the Vendor upon demand, together with interest from the date of such demand to the date of payment by the Railroad at the rate per annum set forth in Article 4 hereof applicable to amounts remaining unpaid after becoming due and payable. If the Railroad shall fail to pay such deficiency, the Vendor may bring suit therefor and shall be entitled to recover a judgment therefor against the Railroad. If, after applying as aforesaid all sums realized by the Vendor, there shall remain a surplus in the possession of the Vendor, such surplus shall be paid to the Railroad.

The Railroad will pay all reasonable expenses, including attorneys' fees, incurred by the Vendor in enforcing its remedies under the terms of this Agreement. In the event that the Vendor shall bring any suit to enforce any of its rights hereunder and shall be entitled to judgment, then in such suit the Vendor may recover reasonable expenses, including attorneys' fees, and the amount thereof shall be included in such judgment.

The foregoing provisions of this Article 18 are subject in all respects to all mandatory legal requirements at the time in force and applicable thereto.

ARTICLE 19. Applicable State Laws. Any provision of this Agreement prohibited by any applicable law of any jurisdiction shall as to such jurisdiction be ineffective, without modifying the remaining provisions of this Agreement. Where, however, the conflicting provisions of any such applicable law may be waived, they are hereby waived by the Railroad and the Guarantor to the full extent permitted by law, it being the

intention of the parties hereto that this Agreement shall be deemed to be a conditional sale and enforced as such.

Except as otherwise provided in this Agreement, the Railroad and the Guarantor, to the full extent permitted by law, hereby waive all statutory or other legal requirements for any notice of any kind, notice of intention to take possession of or to sell or lease the Equipment or any unit thereof, and any other requirements as to the time, place and terms of the sale or lease thereof, any other requirements with respect to the enforcement of the Vendor's rights under this Agreement and any and all rights of redemption.

ARTICLE 20. Recording. The Railroad will cause this Agreement, any assignments hereof and any amendments or supplements hereto or thereto to be filed with the Interstate Commerce Commission in accordance with 49 U.S.C. § 11303; and the Railroad will from time to time do and perform any other act and will execute, acknowledge, deliver, file, register, deposit and record any and all further instruments required by law or reasonably requested by the Vendor for the purpose of proper protection, to the satisfaction of counsel for the Vendor, of its interest in the Equipment and its rights under this Agreement or for the purpose of carrying out the intention of this Agreement; and the Railroad will promptly furnish to the Vendor certificates or other evidence of such filing, registering, depositing and recording satisfactory to the Vendor.

ARTICLE 21. Payment of Expenses. The Railroad will pay all reasonable costs and expenses (other than the fees and expenses of counsel for the Builders) incident to this Agreement and any assignment of this Agreement (including the fees and expenses of an agent, if the assignee is an agent), and any instrument supplemental or related hereto or thereto, including all fees and expenses of Messrs. Cravath, Swaine & Moore, special counsel for the first assignee of this Agreement and for any party acquiring interests in such first assignment, and all reasonable costs and expenses in connection with the transfer by any party of interests acquired in such first assignment.

ARTICLE 22. Notice. Any notice hereunder to any of the parties designated below shall be deemed to be properly served if delivered or mailed to it at its chief place of business at the following specified addresses:

(a) to the Railroad or the Guarantor, at 114 West Eleventh Street, Kansas City, Missouri 64105,

(b) to a Builder, at its address specified in Item 1 of Schedule A hereto, and

(c) to any assignee of the Vendor or of the Railroad, at such address as may have been furnished in writing to each of the other parties hereto by such assignee,

or at such other address as may have been furnished in writing by such party to the other parties to this Agreement.

ARTICLE 23. Article Headings; Effect and Modification of Agreement. All article headings are inserted for convenience only and shall not affect any construction or interpretation of this Agreement.

This Agreement, including the Schedules hereto, exclusively states the rights of the Vendor, the Railroad and the Guarantor with respect to the Equipment and supersedes all other agreements, oral or written, with respect to the Equipment. No variation or modification of this Agreement and no waiver of any of its provisions or conditions shall be valid unless in writing and signed by duly authorized officers of the Vendor, the Railroad and the Guarantor.

ARTICLE 24. Law Governing. The terms of this Agreement and all rights and obligations hereunder shall be governed by the laws of the State of Missouri; provided, however, that the parties shall be entitled to all rights conferred by 49 U.S.C. § 11303 and such additional rights arising out of the filing, recording or deposit hereof, if any, and of any assignment hereof as shall be conferred by the laws of the several jurisdictions in which this Agreement or any assignment hereof shall be filed, recorded or deposited.

ARTICLE 25. Execution. This Agreement may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, and such counterparts together shall constitute but one and the same contract, which shall be sufficiently evidenced by any such original counterpart. It shall not be necessary that any counterpart be signed by all the parties so long as any counterpart be signed by the Railroad, the Guarantor and one or more Builders. Each Builder shall be bound hereunder notwithstanding the failure of any other Builder to execute and deliver this Agreement or to perform its obligations

hereunder. Although this Agreement is dated, for convenience, as of the date first set forth above, the actual date or dates of execution hereof by the parties hereto is or are, respectively, the date or dates stated in the acknowledgments hereto annexed.

IN WITNESS WHEREOF, the parties hereto, each pursuant to due corporate authority, have caused this instrument to be executed in their respective corporate names by their officers or other persons, thereunto duly authorized, and their respective corporate seals to be hereunto affixed, duly attested, all as of the date first above written.

LOUISIANA & ARKANSAS RAILWAY  
COMPANY,

[Corporate Seal]

by

Y C Kellogg  
Vice President

Attest:

Geraldine D. Dallens  
ASSISTANT Secretary

THE KANSAS CITY SOUTHERN RAILWAY  
COMPANY,

[Corporate Seal]

by

Y C Kellogg  
Vice President

Attest:

Geraldine D. Dallens  
ASSISTANT Secretary

BETHLEHEM STEEL CORPORATION,

by

D H Kruger  
Vice President

[Corporate Seal]

Attest:

M W Vane  
Assistant Secretary

GENERAL MOTORS CORPORATION  
(Electro-Motive Division),

by

[Corporate Seal]

\_\_\_\_\_  
Vice President

Attest:

\_\_\_\_\_  
Assistant Secretary

PULLMAN INCORPORATED (Pullman  
Standard Division),

by

[Corporate Seal]

\_\_\_\_\_  
Vice President--Freight Unit

Attest:

\_\_\_\_\_  
Assistant Secretary

STATE OF MISSOURI, )  
 ) ss.:  
 COUNTY OF JACKSON, )

On this 25<sup>th</sup> day of May 1979 before me personally appeared D. E. Kellogg, to me personally known, who, being by me duly sworn, says that he is a Vice President of LOUISIANA & ARKANSAS RAILWAY COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said Corporation, that said instrument was signed and sealed on behalf of said Corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said Corporation.

Irene Paulhe  
 Notary Public

My Commission Expires  
 IRENE PAULHE  
 Notary Public - State of Missouri  
 Commissioned in Platte County  
 My Commission Expires March 22, 1983

[Notarial Seal]

STATE OF MISSOURI, )  
 ) ss.:  
 COUNTY OF JACKSON, )

On this 25<sup>th</sup> day of May 1979 before me personally appeared D. E. Kellogg, to me personally known, who, being by me duly sworn, says that he is a Vice President of THE KANSAS CITY SOUTHERN RAILWAY COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said Corporation, that said instrument was signed and sealed on behalf of said Corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said Corporation.

Irene Paulhe  
 Notary Public

[Notarial Seal]

My Commission Expires  
 IRENE PAULHE  
 Notary Public - State of Missouri  
 Commissioned in Platte County  
 My Commission Expires March 22, 1983

STATE OF ILLINOIS, )  
 ) ss.:  
 COUNTY OF COOK, )

On this            day of May 1979 before me personally appeared            , to me personally known, who, being by me duly sworn, says that he is the Vice President--Freight Unit of PULLMAN INCORPORATED (Pullman Standard Division), that one of the seals affixed to the foregoing instrument is the corporate seal of said Corporation, that said instrument was signed and sealed on behalf of said Corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said Corporation.

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Notary Public

[Notarial Seal]

STATE OF ILLINOIS, )  
 ) ss.:  
 COUNTY OF COOK, )

On this            day of May 1979 before me personally appeared            , to me personally known, who, being by me duly sworn, says that he is a Vice President of GENERAL MOTORS CORPORATION (Electro-Motive Division), that one of the seals affixed to the foregoing instrument is the corporate seal of said Corporation, that said instrument was signed and sealed on behalf of said Corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said Corporation.

---

Notary Public

[Notarial Seal]

My Commission expires



COMMONWEALTH OF PENNSYLVANIA,) ) ss.:  
COUNTY OF LEHIGH, )

On this 23rd day of May 1979 before me personally appeared D. H. Klinges, to me personally known, who, being by me duly sworn, says that he is a Vice President of BETHLEHEM STEEL CORPORATION, that one of the seals affixed to the foregoing instrument is the corporate seal of said Corporation, that said instrument was signed and sealed on behalf of said Corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said Corporation.

[Notarial Seal]

Evelyn S. Neube

Notary Public

My Commission Expires

City of Bethlehem

Lehigh County

October 13, 1982

## SCHEDULE A

to

## Conditional Sale Agreement

- Item 1:
- (a) Bethlehem Steel Corporation, a Delaware corporation, Bethlehem, Pennsylvania 18016, Attention of Manager of Railroad Products Sales.
  - (b) General Motors Corporation (Electro-Motive Division), a Delaware corporation, La Grange, Illinois 60525.
  - (c) Pullman Incorporated (Pullman Standard Division), a Delaware corporation, 200 South Michigan Avenue, Chicago, Illinois 60604.

- Item 2:
- (a) General Motors Corporation (Electro-Motive Division) ("GM") warrants that its Equipment is of the kind and quality described in, or will be built in accordance with, the Specifications therefor referred to in Article 2 of the Agreement to which this Schedule A is attached and is suitable for the ordinary purposes for which such Equipment is used and warrants each unit of its Equipment to be free from defects in material and workmanship which may develop under normal use and service within two years from date of delivery of such unit or before such unit has been operated 250,000 miles, whichever event shall first occur. GM agrees to correct such defects, which examination shall disclose to its satisfaction to be defective, by repair or replacement F.O.B. factory and such correction shall constitute fulfillment of its obligation with respect to such defect under this warranty.

GM warrants specialties not of its own specification or design to the same extent that the suppliers of such specialties warrant such items to GM.

THERE ARE NO WARRANTIES WITH RESPECT TO MATERIAL AND WORKMANSHIP, EXPRESSED OR IMPLIED, MADE BY GM EXCEPT THE WARRANTIES SET OUT ABOVE.

GM further agrees with the railroad that neither the inspection as provided in Article 3 of the Agreement, nor any examination, nor the acceptance of any units of the Equipment as provided in said Article 3 shall be deemed a waiver or modification by the Railroad of any of its rights under this Item 2(a).

(b) Bethlehem Steel Corporation ("Bethlehem") warrants that its Equipment will be built in accordance with the Specifications and the standards and requirements set forth in Article 2 of the Agreement to which this Schedule A is attached (the "Agreement") and warrants its Equipment will be free from defects in material (except as to specialties incorporated therein specified or supplied by the Railroad and not manufactured by Bethlehem) and workmanship under normal use and service, Bethlehem's obligation under this Item 2(b) being limited to making good at its plant any part or parts of any unit of its Equipment which shall, within one year after the delivery of such unit to the Railroad, be returned to Bethlehem with transportation charges prepaid and which Bethlehem's examination shall disclose to its satisfaction to have been thus defective.

The foregoing warranty of Bethlehem is expressly in lieu of all other warranties, expressed or implied, including any implied warranty of merchantability or fitness for a particular purpose, and Bethlehem neither assumes nor authorizes any person to assume for it any other liability in connection with the construction and delivery of its Equipment, except for the patent indemnification included in Article 15 of the Agreement as aforesaid. It is further understood that in no event shall Bethlehem be liable for indirect or consequential damages of any kind.

Bethlehem further agrees with the Railroad that neither the inspection as provided in Article 3 of the Agreement, nor any examination, nor the acceptance of any units of its

Equipment as provided in said Article 3 shall be deemed a waiver or a modification by the Railroad of any of its rights under this Item 2(b).

(c) Pullman Incorporated (Pullman Standard Division) ("Pullman") warrants that the equipment will be built in accordance with the specifications and requirements set forth in Article 2 of the Agreement to which this Schedule A is attached (the "Agreement"). Pullman further warrants that its Equipment will be free from defects in material (except as to items or specialties incorporated therein which were specified or supplied by the Railroad and not manufactured by Pullman) and workmanship under normal use and service, Pullman's obligation under this item 2(c) being limited to making good at its plant any part or parts of any unit of its Equipment which shall, within one year after delivery of such unit to the Railroad, be returned to Pullman with transportation charges prepaid and which Pullman's examination shall disclose to its satisfaction such part or parts to have been defective; provided, however, that this warranty will be subject to the following limitations: (i) warranty coverage on unit running gear and contact points to unit structure is restricted to one year or 25,000 miles, whichever first occurs; and (ii) normal use and service is deemed to require inspection, adjustment, maintenance and compliance with Pullman's written instructions and any applicable Federal, state or local laws or regulations.

Pullman MAKES NO WARRANTY OF MERCHANTABILITY OR FITNESS FOR PARTICULAR PURPOSE. The Railroad's right under the foregoing warranty shall be its sole and exclusive remedy and Pullman will have no liability for lost profits or for indirect, incidental, consequential or commercial losses. This warranty is expressly in lieu of all other warranties expressed or implied on the part of Pullman, except for its obligations and liabilities under Articles 2, 3, 4 and 15 of the Agreement. Pullman neither

assumes nor authorizes any person to assume for it any other warranty liability in connection with the construction and delivery of its Equipment.

Pullman further agrees with the Railroad that neither the inspection as provided in Article 3 of the Agreement, nor any examination, nor the acceptance of any units of its Equipment as provided in said Article 3 shall be deemed a waiver of its rights under this Item 2(c).

- Item 3: (a) GM shall defend any suit or proceeding brought against the Railroad and/or each assignee of GM's rights under the Agreement so far as the same is based on a claim that the Equipment of GM's specification, or any part thereof, furnished under the Agreement constitutes an infringement of any patent, if notified promptly in writing and given authority, information and assistance (at GM's expense) for the defense of same, and GM shall pay all damages and costs awarded therein against the Railroad and/or any such assignee.

In case any unit of such Equipment, or any part thereof, is in such suit held to constitute infringement and the use of such unit or part is enjoined, GM shall at its option and its own expense either procure for the Railroad and any such assignee the right to continue using such unit or part, or replace the same with noninfringing equipment subject to the Agreement, or modify it so it becomes noninfringing, or remove such unit and refund the Purchase Price and the transportation and installation costs thereof. If the Purchase Price is so refunded, such refund shall be made to the assignee of GM's rights under the Agreement if this Agreement has been so assigned, which refund, to the extent of the unpaid Indebtedness, shall be applied in like manner as payments in respect of Casualty Occurrences under Article 8 of the Agreement and, as long as no event of default or event which with the lapse of time and/or demand could constitute an event of default

under the Agreement shall have occurred and be continuing, the balance shall be paid by such assignee to the Railroad.

GM will not assume liability for patent infringement by reason of purchase, manufacture, sale or use of devices not included in and covered by its specifications.

The foregoing states the entire liability of GM for patent infringement by its Equipment or any part thereof.

(b) Bethlehem and Pullman each severally agrees as follows:

Except in cases of articles or materials specified by the Railroad and not manufactured by such Builder and in cases of designs, systems, processes, formulae or combinations specified by the Railroad and not developed or purported to be developed by such Builder, each Builder agrees to indemnify, protect and hold harmless the Railroad from and against any and all liability, claims, costs, charges and expenses, including royalty payments and counsel fees, in any manner imposed upon or accruing against the Railroad, its assigns or the users of the Equipment of such Builder because of the use in or about the construction or operation of any of such Equipment of any design, system, process, formula, combination, article or material which infringes or is claimed to infringe on any patent or other right. The Railroad likewise will indemnify, protect and hold harmless the Vendor from and against any and all liability, claims, costs, charges and expenses, including royalty payments and counsel fees, in any manner imposed upon or accruing against the Vendor because of the use in or about the construction or operation of any of the Equipment of any article or material specified by the Railroad and not manufactured by the Builder of such Equipment or of any design, system, process, formula or combination specified by the Railroad and not developed or purported to be developed by such Builder which infringes or is

claimed to infringe on any patent or other right. Each Builder agrees to and hereby does, to the extent legally possible without impairing any claim, right or cause of action hereinafter referred to, assign, set over and deliver to the Railroad every claim, right and cause of action which such Builder has or hereafter shall have against the seller or sellers of any designs, systems, processes, formulae, combination, articles or materials specified by the Railroad and purchased or otherwise acquired by such Builder for use in or about the construction or operation of any of the Equipment of such Builder on the ground that any such design, system, process, formula, combination, article or material or operation thereof infringes or is claimed to infringe on any patent or other right. Each Builder further agrees to execute and deliver to the Railroad or the users of the Equipment of such Builder all and every such further assurance as may be reasonably requested by the Railroad more fully to effectuate the assignment and delivery of every such claim, right and cause of action. Each Builder will give notice to the Railroad of any claim known to such Builder from which liability may be charged against the Railroad hereunder and the Railroad will give notice to such Builder of any claim known to the Railroad from which liability may be charged against the Builder hereunder. Such covenants of indemnity shall continue in full force and effect notwithstanding the full payment of all sums due under this Agreement, or the satisfaction, discharge or termination of this Agreement in any manner whatsoever.

SCHEDULE B

Builder	AAR Mechanical Designation	Type	Builder's Specifications	Builder's Plant	Quantity	Unit Base Price	Total Base Price	Road Numbers (Inclusive)	Estimated Time and Place of Delivery
General Motors Corporation (Electro- Motive Division)	C-C	3,500 h.p. diesel electric locomotive Model SD 40X	8111	LaGrange, Illinois	4	\$775,000	\$ 3,100,000	KCS 700-703	September- October 1979
General Motors Corporation (Electro- Motive Division)	B-B	3,000 h.p. diesel electric locomotive Model GP 40-2	8091	LaGrange, Illinois	2	640,000	1,280,000	KCS 900 and 901	July- August 1979
Bethlehem Steel Corporation	HT	Open top hopper cars	DF 3400-504	Johnstown, Pa.	200	36,500	7,300,000	See Schedule B-1 attached hereto	June 1979 at Johns- town, Pa.
Pullman Incorpo- rated	XM	100 ton 50'6" Box Cars	No. 3824, dated 5/24/78, as amended	Bessemer, Alabama	200	42,730	8,546,000	See Schedule B-2 attached hereto	October 1979 at Bessemer, Alabama
Total							\$20,226,000		



## NEW CARS

OPEN TOP HOPPER CARS  
Bethlehem Steel Corporation (Builder)

## STENCILED

KCS 220001	KCS 220566	KCS 221121	KCS 221686
KCS 220019	KCS 220574	KCS 221139	KCS 221694
KCS 220027	KCS 220582	KCS 221147	KCS 221708
KCS 220035	KCS 220591	KCS 221155	KCS 221716
KCS 220043	KCS 220604	KCS 221163	KCS 221724
KCS 220051	KCS 220612	KCS 221171	KCS 221732
KCS 220060	KCS 220621	KCS 221180	KCS 221741
KCS 220078	KCS 220639	KCS 221198	KCS 221759
KCS 220086	KCS 220647	KCS 221201	KCS 221767
KCS 220094	KCS 220655	KCS 221210	KCS 221775
KCS 220108	KCS 220663	KCS 221228	KCS 221783
KCS 220116	KCS 220671	KCS 221236	KCS 221791
KCS 220124	KCS 220680	KCS 221244	KCS 221805
KCS 220132	KCS 220698	KCS 221252	KCS 221813
KCS 220141	KCS 220701	KCS 221261	KCS 221821
KCS 220159	KCS 220710	KCS 221279	KCS 221830
KCS 220167	KCS 220728	KCS 221287	KCS 221848
KCS 220175	KCS 220736	KCS 221295	KCS 221856
KCS 220183	KCS 220744	KCS 221309	KCS 221864
KCS 220191	KCS 220752	KCS 221317	KCS 221872
KCS 220205	KCS 220761	KCS 221325	KCS 221881
KCS 220213	KCS 220779	KCS 221333	KCS 221899
KCS 220221	KCS 220787	KCS 221341	KCS 221902
KCS 220230	KCS 220795	KCS 221350	KCS 221911
KCS 220248	KCS 220809	KCS 221368	KCS 221929
KCS 220256	KCS 220817	KCS 221376	KCS 221937
KCS 220264	KCS 220825	KCS 221384	KCS 221945
KCS 220272	KCS 220833	KCS 221392	KCS 221953
KCS 220281	KCS 220841	KCS 221406	KCS 221961
KCS 220299	KCS 220850	KCS 221414	KCS 221970
KCS 220302	KCS 220868	KCS 221422	KCS 221988
KCS 220311	KCS 220876	KCS 221431	KCS 221996
KCS 220329	KCS 220884	KCS 221449	
KCS 220337	KCS 220892	KCS 221457	
KCS 220345	KCS 220906	KCS 221465	
KCS 220353	KCS 220914	KCS 221473	
KCS 220361	KCS 220922	KCS 221481	
KCS 220370	KCS 220931	KCS 221490	
KCS 220388	KCS 220949	KCS 221503	
KCS 220396	KCS 220957	KCS 221511	
KCS 220400	KCS 220965	KCS 221520	
KCS 220418	KCS 220973	KCS 221538	
KCS 220426	KCS 220981	KCS 221546	
KCS 220434	KCS 220990	KCS 221554	
KCS 220442	KCS 221007	KCS 221562	
KCS 220451	KCS 221015	KCS 221571	
KCS 220469	KCS 221023	KCS 221589	
KCS 220477	KCS 221031	KCS 221597	
KCS 220485	KCS 221040	KCS 221601	
KCS 220493	KCS 221058	KCS 221619	
KCS 220507	KCS 221066	KCS 221627	
KCS 220515	KCS 221074	KCS 221635	
KCS 220523	KCS 221082	KCS 221643	
KCS 220531	KCS 221091	KCS 221651	
KCS 220540	KCS 221104	KCS 221660	
KCS 220558	KCS 221112	KCS 221678	

## NEW CARS

## BOX CARS

SCHEDULE B-2

Pullman Incorporated (Builder)

## STENCILED

KCS 170003	KCS 170569	KCS 171123	KCS 171689
KCS 170011	KCS 170577	KCS 171131	KCS 171697
KCS 170020	KCS 170585	KCS 171140	KCS 171701
KCS 170038	KCS 170593	KCS 171158	KCS 171719
KCS 170046	KCS 170607	KCS 171166	KCS 171727
KCS 170054	KCS 170615	KCS 171174	KCS 171735
KCS 170062	KCS 170623	KCS 171182	KCS 171743
KCS 170071	KCS 170631	KCS 171191	KCS 171751
KCS 170089	KCS 170640	KCS 171204	KCS 171760
KCS 170097	KCS 170658	KCS 171212	KCS 171778
KCS 170101	KCS 170666	KCS 171221	KCS 171786
KCS 170119	KCS 170674	KCS 171239	KCS 171794
KCS 170127	KCS 170682	KCS 171247	KCS 171806
KCS 170135	KCS 170691	KCS 171255	KCS 171816
KCS 170143	KCS 170704	KCS 171263	KCS 171824
KCS 170151	KCS 170712	KCS 171271	KCS 171832
KCS 170160	KCS 170721	KCS 171280	KCS 171841
KCS 170178	KCS 170739	KCS 171298	KCS 171859
KCS 170186	KCS 170747	KCS 171301	KCS 171867
KCS 170194	KCS 170755	KCS 171310	KCS 171875
KCS 170208	KCS 170763	KCS 171328	KCS 171883
KCS 170216	KCS 170771	KCS 171336	KCS 171891
KCS 170224	KCS 170780	KCS 171344	KCS 171905
KCS 170232	KCS 170798	KCS 171352	KCS 171913
KCS 170241	KCS 170801	KCS 171361	KCS 171921
KCS 170259	KCS 170810	KCS 171379	KCS 171930
KCS 170267	KCS 170828	KCS 171387	KCS 171948
KCS 170275	KCS 170836	KCS 171395	KCS 171956
KCS 170283	KCS 170844	KCS 171409	KCS 171964
KCS 170291	KCS 170852	KCS 171417	KCS 171972
KCS 170305	KCS 170861	KCS 171425	KCS 171981
KCS 170313	KCS 170879	KCS 171433	KCS 171999
KCS 170321	KCS 170887	KCS 171441	
KCS 170330	KCS 170895	KCS 171450	
KCS 170348	KCS 170909	KCS 171468	
KCS 170356	KCS 170917	KCS 171476	
KCS 170364	KCS 170925	KCS 171484	
KCS 170372	KCS 170933	KCS 171492	
KCS 170381	KCS 170941	KCS 171506	
KCS 170399	KCS 170950	KCS 171514	
KCS 170402	KCS 170968	KCS 171522	
KCS 170411	KCS 170976	KCS 171531	
KCS 170429	KCS 170984	KCS 171549	
KCS 170437	KCS 170992	KCS 171557	
KCS 170445	KCS 171000	KCS 171565	
KCS 170453	KCS 171018	KCS 171573	
KCS 170461	KCS 171026	KCS 171581	
KCS 170470	KCS 171034	KCS 171590	
KCS 170485	KCS 171042	KCS 171603	
KCS 170496	KCS 171051	KCS 171611	
KCS 170500	KCS 171069	KCS 171620	
KCS 170519	KCS 171077	KCS 171638	
KCS 170526	KCS 171085	KCS 171646	
KCS 170534	KCS 171093	KCS 171654	
KCS 170542	KCS 171107	KCS 171662	
KCS 170551	KCS 171115	KCS 171671	

## AGREEMENT AND ASSIGNMENT

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AGREEMENT AND ASSIGNMENT, dated as of April 15, 1979, between CHEMICAL BANK, acting as Agent under a Finance Agreement (the "Finance Agreement") dated as of the date hereof (said Agent, so acting, being hereinafter called the "Assignee"), and each of BETHLEHEM STEEL CORPORATION, GENERAL MOTORS CORPORATION (Electro-Motive Division) and PULLMAN INCORPORATED (Pullman Standard Division) (hereinafter called individually the "Builder" and collectively the "Builders").

The Builders and Louisiana & Arkansas Railway Company (the "Railroad"), and The Kansas City Southern Railway Company (the "Guarantor") have entered into a Conditional Sale Agreement dated as of the date hereof (the "CSA"), covering the construction, sale and delivery, on the conditions therein set forth, by the Builders, severally, and the purchase by the Railroad of the railroad equipment described in Schedule B to the CSA (said equipment being hereinafter called the "Equipment" and the Equipment constructed, sold and delivered by each Builder being hereinafter sometimes called "such Builder's Equipment" or "its Equipment");

NOW, THEREFORE, THIS AGREEMENT AND ASSIGNMENT (hereinafter called this Assignment) WITNESSETH: That, in consideration of the sum of One Dollar (\$1) and other good and valuable consideration paid by the Assignee to each Builder, the receipt of which is hereby acknowledged, as well as of the mutual covenants herein contained:

SECTION 1. Each Builder hereby assigns, transfers and sets over unto the Assignee, its successors and assigns:

(a) all the right, title and interest of such Builder in and to each unit of Equipment when and as severally delivered to and accepted by the Railroad, subject to payment by the Assignee to such Builder of the amount required to be paid for such unit (other than amounts owing under supplemental invoices) pursuant to Section 4 hereof and/or by the Railroad pursuant to subparagraph (a) of the third paragraph of Article 4 of the CSA;

(b) all the right, title and interest of such Builder in and to the CSA (except the right to construct and deliver such Builder's Equipment and the right to

receive the payments specified in the third paragraph of Article 3 thereof, and in subparagraph (a) of the third paragraph of Article 4 thereof and the last paragraph of Article 16 thereof and reimbursements for taxes paid or incurred by such Builder as provided in Article 5 thereof), and in and to any and all amounts which may be or become due or owing by the Railroad to such Builder under the CSA in respect of the Purchase Price (as defined in the CSA) of the Equipment and interest thereon, and in and to any other sums becoming due from the Railroad under the CSA, other than those hereinabove excluded; and

(c) except as limited by subparagraph (b) hereof, all such Builder's rights, powers, privileges and remedies under the CSA;

without any recourse against such Builder for or on account of the failure of the Railroad to make any of the payments provided for in, or otherwise to comply with, any of the provisions of the CSA; provided, however, that this Assignment shall not subject the Assignee to, or transfer, or pass, or in any way affect or modify, the liability of such Builder to construct and deliver its Equipment in accordance with the CSA or with respect to its obligations contained or referred to in Article 15 of the CSA, or relieve the Railroad from its obligations to such Builder contained or referred to in Articles 2, 3, 4, 5, 14, 15 and 16 of the CSA, it being agreed that, notwithstanding this Assignment, or any subsequent assignment pursuant to the provisions of Article 16 of the CSA, all obligations of such Builder to the Railroad with respect to such Builder's Equipment shall be enforceable by the Railroad, its successors and assigns, against and only against such Builder. Each Builder hereby authorizes and empowers the Assignee, in the Assignee's own name or in the name of the Assignee's nominee, or in the name of and as attorney hereby irrevocably constituted for such Builder, to ask, demand, sue for, collect, receive and enforce any and all sums to which the Assignee is or may become entitled under this Assignment and to ask, demand, sue for and enforce compliance by the Railroad with the terms and agreements on its part to be performed under the CSA, but at the expense and liability and for the sole benefit of the Assignee.

SECTION 2. Each Builder agrees that it shall construct its Equipment in full accordance with the CSA and will deliver the same upon completion to the Railroad in accordance with the provisions of the CSA; and that, notwith-

standing this Assignment, it will perform and fully comply with each of and all the provisions of the CSA set forth to be performed and complied with by such Builder. Each Builder further agrees that it will warrant to the Assignee and the Railroad that, at the time of delivery of each unit of the Equipment of such Builder under the CSA, it had legal title to such unit and good and lawful right to sell such unit and that title to such unit was free of all claims, liens, security interests and other encumbrances (other than those created by the CSA and other than the rights of the Assignee under this Agreement); and each Builder further agrees that it will defend the title to each unit of its Equipment against the demands of all persons whomsoever based on claims originating prior to the delivery of such unit by such Builder under the CSA; all subject, however, to the provisions of the CSA and the rights of the Railroad thereunder. No Builder will deliver any of its Equipment to the Railroad under the CSA until the filings referred to in Article 20 of the CSA have been effected (the respective Builders and their counsel being entitled to rely on advice from special counsel for the Assignee that such filings have been effected).

SECTION 3. Each Builder agrees with the Assignee that in any suit or action brought by the Assignee under the CSA for any installment of, or interest on, indebtedness in respect of the Purchase Price of its Equipment or to enforce any provision of the CSA, such Builder will indemnify and hold harmless the Assignee from and against all expense, loss or damage suffered by reason of any defense, setoff or counterclaim whatsoever of the Railroad or the Guarantor arising out of a breach by such Builder of any obligation with respect to its Equipment or the construction, delivery or warranty thereof, or by reason of any defense, setoff or counterclaim whatsoever arising by reason of any other indebtedness or liability at any time owing to the Railroad or the Guarantor by such Builder. Each Builder's obligation so to indemnify and hold harmless the Assignee is conditional upon (a) the Assignee's timely motion or other appropriate action, on the basis of Article 16 of the CSA, to strike any defense, setoff or counterclaim asserted by the Railroad or the Guarantor in any such suit or action and (b) if the court or other body having jurisdiction in such suit or action denies such motion or other action and accepts such defense, setoff or counterclaim as a triable issue in such suit or action, the Assignee's prompt notification to such Builder of the asserted defense, setoff or counterclaim and the Assignee's giving such Builder the right, at such Builder's expense, to compromise, settle or defend against such defense, setoff or counterclaim.

Except in cases of articles or materials specified by the Railroad and not manufactured by such Builder and in cases of designs, systems, processes, formulae or combinations specified by the Railroad and not developed or purported to be developed by such Builder, each Builder agrees, except as otherwise specifically provided in the CSA, to indemnify, protect and hold harmless the Assignee from and against any and all liability, claims, costs, charges and expenses, including royalty payments and counsel fees, in any manner imposed upon or accruing against the Assignee or its assigns because of the use in or about the construction or operation of any of its Equipment of any design, system, process, formula, combination, article or material which infringes or is claimed to infringe on any patent or other right. The Assignee will give prompt notice to the appropriate Builder of any such liability or claim actually known to the Assignee and will give such Builder the right, at such Builder's expense, to compromise, settle or defend against such claim.

Each Builder agrees that any amounts payable to it by the Railroad with respect to its Equipment, whether pursuant to the CSA or otherwise, not hereby assigned to the Assignee, shall not be secured by any lien, charge or security interest upon the Equipment or any unit thereof (other than such as result from reassignment to such Builder in accordance with the last paragraph of Section 4 hereof).

SECTION 4. The Assignee, on each Closing Date fixed as provided in Article 4 of the CSA with respect to a Group (as defined in said Article 4) of the Equipment, shall pay to the Builder whose Equipment shall be included in such Group and to each Builder which shall submit a supplemental invoice for settlement on such Closing Date as contemplated in Article 4 of the CSA an amount equal to the portion of the Purchase Price of such Builder's Equipment as shown on the invoice or supplemental invoice therefor then being settled for which, under the terms of said Article 4, is payable in installments, provided that there shall have been delivered to the Assignee, as provided in Article 16 of the CSA, at least five business days (as defined in said Article 4) prior to such Closing Date, the following documents, in form and substance satisfactory to it and to its special counsel hereinafter mentioned, in such number of counterparts as may be reasonably requested.

(a) a bill of sale from such Builder to the Assignee transferring to the Assignee all right, title and interest of such Builder in such Builder's Equipment in such Group, warranting to the Assignee and to the Railroad that at the time of delivery of such units under the CSA

such Builder had legal title to such units and good and lawful right to sell such units and that such units were free of all claims, liens, security interests and other encumbrances (other than those created by the CSA and other than the rights of the Assignee under this Assignment), and covenanting to defend the title to such units against the demands of all persons whomsoever based on claims originating prior to the delivery of such units by such Builder under the CSA;

(b) a Certificate or Certificates of Acceptance with respect to the units of such Builder's Equipment in such Group as contemplated by Article 3 of the CSA;

(c) an invoice of such Builder for the units of such Builder's Equipment in such Group and any supplemental invoice for which settlement is then being made, in each case accompanied by or having endorsed thereon a certification by the Railroad as to the correctness of the prices stated therein;

(d) an opinion of Messrs. Cravath, Swaine & Moore, who are acting as special counsel for the Assignee and the Investors named in the Finance Agreement, dated as of such Closing Date, to the effect that (i) the Finance Agreement, assuming due authorization, execution and delivery by such Investors, has been duly authorized, executed and delivered and is a legal, valid and binding instrument, (ii) the CSA has been duly authorized, executed and delivered by the Railroad, the Guarantor and such Builder and is a legal, valid and binding instrument, enforceable in accordance with its terms, (iii) this Assignment has been duly authorized, executed and delivered by such Builder and is a legal, valid and binding instrument enforceable against such Builder in accordance with its terms, (iv) the Assignee is vested with all the rights, titles, interests, powers and privileges purported to be assigned to it by this Assignment, (v) the Assignee has a valid and perfected first security title in the units of the Equipment in such Group on the terms purported to be granted by the CSA, and such units, at the time of delivery thereof to the Railroad under the CSA, were free from all claims, liens, security interests and other encumbrances (other than those created by the CSA and other than the rights of such Builder excluded from this Assignment), (vi) no authorization of the Interstate Commerce Commission or any other governmental authority is necessary for the valid execution and delivery of the Finance Agreement, the CSA or this Assignment, or if any such



authority is necessary, it has been obtained (specifying the same), (vii) the CSA and this Assignment have been duly filed with the Interstate Commerce Commission in accordance with 49 U.S.C. § 11303 and no other filing or recordation is necessary for the protection of the rights of the Assignee in any state of the United States of America or in the District of Columbia and (viii) registration of the CSA, this Assignment or any certificates of interest delivered pursuant to the Finance Agreement is not required under the Securities Act of 1933, as amended, and qualification of an indenture with respect thereto is not required under the Trust Indenture Act of 1939, as amended; such opinion shall also state that said counsel have examined the opinions being delivered on such Closing Date pursuant to subparagraphs (e) and (f) of this Section 4, that such opinions are satisfactory in form and scope to said counsel and that said counsel believe that the Assignee, the Investors and they are justified in relying thereon; and such opinion shall also cover such other matters as may reasonably be requested by the Assignee or any such Investors;

(e) an opinion of counsel for the Railroad and the Guarantor, dated as of such Closing Date, to the effect set forth in clauses (i), (ii), (v), (vi), (vii) and (viii) of subparagraph (d) above (said counsel, in rendering such opinion, being permitted to assume due authorization, execution and delivery of any agreement by parties thereto other than the Railroad or the Guarantor) and stating that the Railroad and the Guarantor are duly organized and existing corporations in good standing under the laws of their jurisdiction of incorporation and have the full power and authority to own their properties and to carry on their business as conducted on the date thereof;

(f) an opinion of counsel for such Builder, dated as of such Closing Date, to the effect that (i) such Builder is a duly organized and existing corporation in good standing under the laws of its jurisdiction of incorporation and has the full power and authority to own its properties and to carry on its business as now conducted, (ii) the CSA has been duly authorized, executed and delivered by such Builder and, assuming due authorization, execution and delivery by the Railroad and the Guarantor, is a legal and valid instrument binding upon such Builder and enforceable against such Builder in accordance with its terms, (iii) this Assignment has been duly authorized, executed and delivered by such Builder and, assuming due authorization, execution and delivery by the Assignee,

is a legal and valid instrument binding upon such Builder, (iv) the Assignee is vested with all the rights, titles, interests, powers and privileges purported to be assigned to it by this Assignment and (v) the bill of sale referred to in subparagraph (a) of this paragraph has been duly authorized, executed and delivered by such Builder and is valid and effective to transfer all right, title and interest of such Builder in and to the units of Equipment in such Group to the Assignee, free from all claims, liens, security interests and other encumbrances of any nature (other than those created by the CSA and other than the rights of the Assignee under this Assignment) arising from, through or under such Builder;

(g) a certificate of an officer of the Railroad, dated as of such Closing Date, to the effect that (i) to the best of his knowledge and belief, no event of default, or event which with the lapse of time and/or demand provided for in the CSA could constitute an event of default, shall have occurred and is then continuing, and (ii) no Federal tax liens (including tax liens filed pursuant to Section 6323 of the Internal Revenue Code of 1954, as amended) and, to the best of his knowledge and belief, no other tax liens have been filed and are currently in effect which would adversely affect the title and security interest of the Assignee in the Equipment; and

(h) a receipt from such Builder for any payment (other than the payment being made by the Assignee pursuant to the first paragraph of this Section 4) required to be made on such Closing Date to such Builder with respect to the Equipment, unless such payment is made by the Assignee with funds furnished to it for that purpose by the Railroad;

provided, however, that with respect to Equipment for which a supplemental invoice is submitted by any Builder as permitted by Article 4 of the CSA, the only documents which must be delivered to the Assignee are those required by subparagraphs (c), (g)(i) and (h) of this Section 4.

In giving the opinions specified in subparagraphs (d), (e) and (f) of the first paragraph of this Section 4, counsel may qualify any opinion to the effect that any agreement is a legal, valid and binding instrument enforceable in accordance with its terms, by a general reference to limitations as to enforceability, imposed by bankruptcy, insol-

vency, reorganization, moratorium or other similar laws affecting the enforcement of creditors' rights generally. In giving the opinion specified in said subparagraphs (d) and (e), counsel may rely on the opinion of counsel for a Builder as to authorization, execution and delivery by such Builder of the documents executed by such Builder and as to title to the Equipment of such Builder at the time of delivery thereof under the CSA; in giving the opinion specified in said subparagraphs (d) or (f), counsel may rely as to any matter governed by the law of any jurisdiction other than New York or the United States on the opinion of counsel for such Builder or the opinion of counsel for the Railroad and the Guarantor as to such matter.

The obligation of the Assignee hereunder to make any payment provided for in this Section 4 is hereby expressly conditioned upon the Assignee's having on deposit, pursuant to the terms of the Finance Agreement, sufficient funds available thereunder to make such payment. The Assignee shall not be obligated to make payment at any time after the commencement of any proceedings specified in clause (c) or (d) of Article 17 of the CSA or if an event of default, or any event which with the lapse of time and/or demand provided for in the CSA could constitute an event of default, shall have occurred and be continuing under the CSA. In the event that the Assignee shall not make payment for any Group of the Equipment, the Assignee shall reassign to such Builder, without recourse to the Assignee, all right, title and interest of the Assignee in and to the units of the Equipment with respect to which payment has not been made by the Assignee (except payments with respect to supplemental invoices).

SECTION 5. The Assignee may assign all or any of its rights under the CSA. In the event of any such assignment any such subsequent or successive assignee shall, to the extent of such assignment, enjoy all the rights and privileges and be subject to all the obligations of the Assignee hereunder.

#### SECTION 6. Each Builder hereby:

(a) represents and warrants to the Assignee, its successors and assigns, that the CSA was duly authorized by it and lawfully executed and delivered by it for a valid consideration, that, assuming due authorization, execution and delivery by the Railroad and the Guarantor, the CSA is, insofar as such Builder is concerned, a valid and existing agreement binding upon it in accordance with its terms and that it is now in force without amendment thereto;

(b) agrees that it will from time to time and at all times, at the request of the Assignee or its successors or assigns, execute and deliver all such further instruments of assignment, transfer and assurance and do such further acts and things as may be necessary and appropriate in the premises to give effect to the provisions hereinabove set forth and more perfectly to confirm the rights, titles and interests hereby assigned and transferred to the Assignee or intended so to be; and

(c) agrees that, subsequent to the receipt by such Builder of the purchase price for its Equipment, except any portion thereof to be paid pursuant to any supplemental invoice, and upon request of the Assignee, its successors and assigns, it will execute any and all instruments which may be necessary or proper in order to discharge of record the CSA or any other instrument evidencing any interest of such Builder therein or in the Equipment of such Builder.

SECTION 7. The terms of this Assignment and all rights and obligations hereunder as between parties hereto shall be governed by the laws of the State of Illinois; provided, however, that the parties shall be entitled to all the rights conferred as provided in Article 24 of the CSA.

SECTION 8. The rights and obligations of the Builders under this Assignment are several in accordance with their interests and not joint. Accordingly, whenever this Assignment, by use of such designation as "each Builder", "such Builder" or other similar term, confers a right or imposes an obligation upon any Builder or its successor, such right or obligation shall be construed to accrue to or to be enforceable against only the specific Builder giving rise to such right or obligation and its successors as herein provided.

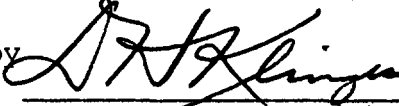
SECTION 9. The Assignee will deliver an executed counterpart of this Assignment to the Railroad and the Guarantor, which delivery shall constitute due notice of the assignment hereby made. Although this Assignment is dated for convenience as of the date first set forth above, the actual date or dates of execution hereof by the parties hereto is or are, respectively, the date or dates stated in the acknowledgments hereto annexed.

SECTION 10. This Assignment may be executed in

any number of counterparts, all of which together shall constitute a single instrument.

IN WITNESS WHEREOF, the parties hereto, each pursuant to due corporate authority, have caused this instrument to be executed in their respective corporate names by duly authorized officers, and their respective corporate seals to be hereunto affixed and duly attested, all as of the date first above written.

BETHLEHEM STEEL CORPORATION,

by   
Vice President

[Corporate Seal]

Attest:  
  
Assistant Secretary

GENERAL MOTORS CORPORATION  
(Electro-Motive Division),

by \_\_\_\_\_  
Vice President

[Corporate Seal]

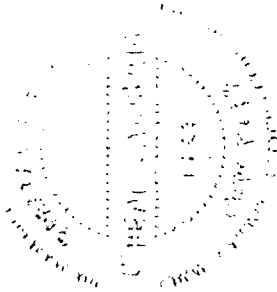
Attest:  
\_\_\_\_\_  
Assistant Secretary

PULLMAN INCORPORATED (Pullman  
Standard Division),

by \_\_\_\_\_  
Vice President--Freight Unit

[Corporate Seal]

Attest:  
\_\_\_\_\_  
Assistant Secretary



[Corporate Seal]

CHEMICAL BANK, as Agent,

by

*R. H. Lane*  
Senior Trust Officer

Attest:

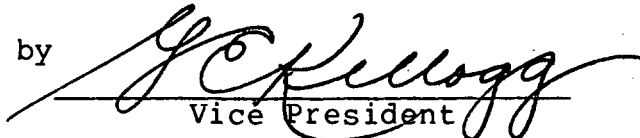
*C. J. Masters*  
Assistant Secretary

ACKNOWLEDGMENT OF NOTICE OF ASSIGNMENT

LOUISIANA & ARKANSAS RAILWAY COMPANY and THE KANSAS SOUTHERN RAILWAY COMPANY each hereby acknowledges due notice of and consents to the assignment made by the foregoing Agreement and Assignment as of April 15, 1979.

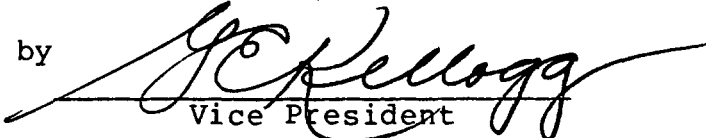
LOUISIANA & ARKANSAS RAILWAY  
COMPANY,

by

  
Vice President

THE KANSAS CITY SOUTHERN  
RAILWAY COMPANY

by

  
Vice President

COMMONWEALTH OF PENNSYLVANIA, )  
 ) ss.:  
 COUNTY OF LEHIGH, )

On this 23rd day of May 1979, before me personally appeared D. H. Kluges, to me personally known, who, being by me duly sworn, says that he is a Vice President of BETHLEHEM STEEL CORPORATION, that one of the seals affixed to the foregoing instrument is the corporate seal of said Corporation, that said instrument was signed and sealed on behalf of said Corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said Corporation.

Evelyn S. Weeks  
 Notary Public

[Notarial Seal]

My Commission Expires  
 City of Bethlehem  
 Lehigh County  
 October 11, 1982

My Commission expires

STATE OF ILLINOIS, )  
 ) ss.:  
 COUNTY OF COOK, )

On this \_\_\_\_\_ day of May 1979, before me personally appeared \_\_\_\_\_, to me personally known, who, being by me duly sworn, says that he is a Vice President of GENERAL MOTORS CORPORATION (Electro-Motive Division), that one of the seals affixed to the foregoing instrument is the corporate seal of said Corporation, that said instrument was signed and sealed on behalf of said Corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said Corporation.

\_\_\_\_\_  
 Notary Public

[Notarial Seal]

My Commission expires



STATE OF ILLINOIS, )  
 ) ss.:  
COUNTY OF COOK, )

On this                      day of May 1979, before me personally appeared                      , to me personally known, who, being by me duly sworn, says that he is the Vice President--Freight Unit of PULLMAN INCORPORATED (Pullman Standard Division), that one of the seals affixed to the foregoing instrument is the corporate seal of said Corporation, that said instrument was signed and sealed on behalf of said Corporation by authority of its Board and he acknowledged that the execution of the foregoing instrument was the free act and deed of said Corporation.

Notary Public

[Notarial Seal]

My Commission expires

STATE OF NEW YORK, )  
 ) ss.:  
COUNTY OF NEW YORK,)

On this 22<sup>nd</sup> day of May 1979, before me personally appeared **F. J. FARRELL**, to me personally known, who, being by me duly sworn, says that he is a Senior Trust Officer of CHEMICAL BANK, that one of the seals affixed to the foregoing instrument is the corporate seal of said Corporation, that said instrument was signed and sealed on behalf of said Corporation by authority of its Board and he acknowledged that the execution of the foregoing instrument was the free act and deed of said Corporation.

Notary Public

[Notarial Seal]

My Commission expires

**SYLVIA LASKOW**  
Notary Public, State of New York  
No. 24-7436995  
Qualified in Kings County  
Certificate filed in New York County  
Commission Expires March 30, 1980

10401

RECORDATION NO. .... Filed 1425

MAY 29 1979 - 12 30 PM

INTERSTATE COMMERCE COMMISSION

[CS&M 2043-923]

CONDITIONAL SALE AGREEMENT

Dated as of April 15, 1979,

among each of

BETHLEHEM STEEL CORPORATION,  
GENERAL MOTORS CORPORATION (ELECTRO-MOTIVE DIVISION)  
and PULLMAN INCORPORATED (Pullman Standard Division)

and

LOUISIANA & ARKANSAS RAILWAY COMPANY

and

THE KANSAS CITY SOUTHERN RAILWAY COMPANY,  
the Guarantor

AGREEMENT AND ASSIGNMENT

Dated as of April 15, 1979,

among each of

BETHLEHEM STEEL CORPORATION,  
GENERAL MOTORS CORPORATION (ELECTRO-MOTIVE DIVISION)  
and PULLMAN INCORPORATED (Pullman Standard Division)

and

CHEMICAL BANK,  
as Agent.

## CONDITIONAL SALE AGREEMENT

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CONDITIONAL SALE AGREEMENT dated as of April 15, 1979, among each of BETHLEHEM STEEL CORPORATION, GENERAL MOTORS CORPORATION (Electro-Motive Division) and PULLMAN INCORPORATED (Pullman Standard Division) (hereinafter called collectively the "Builders" or severally the "Builder", or collectively or severally the "Vendor" as the context may require, all as more particularly set forth in Article 1 hereof), and LOUISIANA & ARKANSAS RAILWAY COMPANY, a Delaware corporation (the "Railroad") and THE KANSAS CITY SOUTHERN RAILWAY COMPANY, a Missouri corporation (the "Guarantor").

The Builders severally have agreed to construct, sell and deliver to the Railroad, and the Railroad has agreed to purchase, the equipment described in Schedule B hereto (the "Equipment");

NOW, THEREFORE, in consideration of the mutual agreements hereinafter set forth, the parties hereto do hereby agree as follows:

ARTICLE 1. Assignment; Certain Definitions. The term "Vendor", whenever used in this Agreement, means, before any assignment of any of their rights hereunder, the respective corporations named in Item 1 of Schedule A hereto and any successor or successors for the time being to their manufacturing properties and businesses, and, after any such assignment, both any assignee or assignees for the time being of such particular assigned rights as regards such rights, and also any assignor as regards any rights hereunder that are retained or excluded from any assignment. The parties hereto contemplate that this Agreement shall be assigned by the Builders to Chemical Bank, acting as agent (the "Agent") under a Finance Agreement dated as of the date hereof (the "Finance Agreement"). The term "Builder", whenever used in this Agreement, means, both before and after any such assignment, the respective corporations (as to the units of Equipment to be constructed by such corporation and sold hereunder) named in Item 1 of Schedule A hereto and any successor or successors for the time being to their respective manufacturing properties and businesses.

The rights and obligations of the Builders under

this Agreement are several in accordance with their interests and not joint. Accordingly, whenever this Agreement, by the use of such designation as "the Vendor", "such Builder" or other similar term, confers a right or imposes an obligation upon any corporation named in Item 1 of Schedule A hereto or its successor, such right or obligation shall be construed to accrue to or to be enforceable against only the specific corporation furnishing the units of Equipment giving rise to such right or obligation and its successors as herein provided.

ARTICLE 2. Construction and Sale. Pursuant to this Agreement, each Builder shall construct the units of the Equipment to be constructed by it as described in Schedule B hereto (such units of Equipment with respect to such Builder being hereinafter called "its Equipment") at its plant set forth in said Schedule B and will sell and deliver to the Railroad, and the Railroad will purchase from such Builder and accept delivery of and pay for (as hereinafter provided), such Equipment, each unit of which shall be constructed in accordance with the specifications referred to in Schedule B hereto and in accordance with such modifications thereof as may be agreed upon in writing between such Builder and the Railroad (which specifications and modifications, if any, are hereinafter called the "Specifications"). The design, quality and component parts of each unit of the Equipment shall conform, on the date of completion of manufacture of each thereof, to all Department of Transportation and Interstate Commerce Commission requirements and specifications and to all standards recommended by the Association of American Railroads reasonably interpreted as being applicable to equipment of the character of such units of the Equipment and each unit of the Equipment (except to the extent referred to in Article 8 hereof) will be new railroad equipment.

ARTICLE 3. Inspection and Delivery. Each Builder will deliver the units of its Equipment to the Railroad at the place or places specified in Schedule B hereto (or if said Schedule B does not specify a place or places, at the place or places designated from time to time by the Railroad), freight charges, if any, prepaid, in accordance with the delivery schedule set forth in Schedule B hereto; provided, however, that no Builder shall have any obligation to deliver any unit of Equipment hereunder at any time after the commencement of any proceedings specified in clause

(c) or (d) of Article 17 hereof or if any event of default (as described in said Article 17), or event which with the lapse of time and/or demand could constitute such an event of default, shall have occurred and be continuing.

Each Builder's obligation as to time of delivery is subject, however, to delays resulting from causes beyond such Builder's reasonable control, including but not limited to acts of God, acts of government such as embargoes, priorities and allocations, war or war conditions, riot or civil commotion, sabotage, strikes, differences with workmen, accidents, fire, flood, explosion, damage to plant, equipment or facilities, delays in receiving necessary materials or delays of carriers or subcontractors.

Notwithstanding the preceding provisions of this Article 3, any Equipment not delivered, accepted and settled for pursuant to Article 4 hereof on or before the Cut-Off Date (as defined in Article 4 hereof) shall be excluded herefrom. If any unit or units of Equipment shall be excluded from this Agreement pursuant to the preceding sentence, the Builder or Builders of such unit or units and the Railroad shall execute an agreement supplemental hereto limiting this Agreement to the units of Equipment not so excluded herefrom. If a Builder's failure to deliver Equipment so excluded from this Agreement resulted from one or more of the causes set forth in the preceding paragraph, the Railroad shall nevertheless be obligated to accept such Equipment and pay the full purchase price therefor, determined as provided in this Agreement, if and when such Equipment shall be completed and delivered by such Builder, such payment to be in cash on the delivery of such Equipment, either directly or, in case the Railroad shall arrange therefor, by means of a conditional sale agreement, equipment trust or such other appropriate method of financing as the Railroad shall determine and as shall be reasonably acceptable to such Builder.

During construction, the Equipment shall be subject to inspection and approval by the authorized inspectors of the Railroad and each Builder shall grant to such authorized inspectors reasonable access to its plant. Each Builder shall inspect all materials used in the construction of its Equipment in accordance with the standard quality control practices of such Builder. Upon completion of each unit or of a number of units of the Equipment, such unit or units shall be presented to an inspector of the Railroad for inspection at the place specified for delivery of such unit or units, and if each such unit conforms to the Specifica-

tions, requirements and standards applicable thereto, such inspector or an authorized representative of the Railroad shall execute and deliver to such Builder a certificate of acceptance (the "Certificate of Acceptance") stating that such unit or units have been inspected and accepted on behalf of the Railroad and are marked in accordance with Article 7 hereof; provided, however, that such Builder shall not thereby be relieved of its warranty referred to in Article 15 hereof.

On delivery of each such unit hereunder at the place specified for delivery, the Railroad will assume the risk of, and shall not be released from its obligations hereunder in the event of, any damage to or the destruction or loss of such unit.

ARTICLE 4. Purchase Price and Payment. The base price or prices per unit of the Equipment are set forth in Schedule B hereto. Such base price or prices are subject to such increase or decrease as is agreed to by the appropriate Builder and the Railroad. The term "Purchase Price" as used herein shall mean the base price or prices as so increased or decreased, including without limitation any increase pursuant to the presentation of a supplemental invoice as hereinafter provided, plus freight charges, if any.

For the purpose of making settlement, the Equipment of each Builder shall be divided into such number of groups of units of the Equipment, delivered to and accepted by the Railroad (each such group being hereinafter called a "Group"), as such Builder and the Railroad may agree to.

The Railroad hereby acknowledges itself to be indebted to the Vendor in the amount of, and hereby promises to pay in cash to the Vendor at such place as the Vendor may designate, the Purchase Price of the Equipment, as follows:

(a) on each Closing Date (as hereinafter defined) the amount, if any, by which (x) the Purchase Price of all units of the Equipment for which settlement has theretofore or is then being made, as stated in the invoice or invoices presented (including the supplemental invoice or invoices hereinafter provided for) in respect of such Closing Date (said invoiced prices being herein called the "Invoiced Purchase Prices"), exceeds (y) the sum of \$20,866,650 and any amount or amounts previously paid or payable with respect to the Invoiced Purchase Prices pursuant to this subparagraph (a); and



(b) in 30 consecutive equal semiannual installments, as hereinafter provided, an amount equal to the aggregate of the Invoiced Purchase Prices for all the Equipment less the amount paid or payable with respect thereto pursuant to subparagraph (a) of this paragraph (the aggregate of said installments being hereinafter called the "Indebtedness").

In the event that on any Closing Date the final Purchase Price of any Group has not been finally determined, the invoice presented may be for an estimated Purchase Price (as evidenced by the words "Interim Invoice" written on the face of such invoice), subject to adjustment upon determination of the final Purchase Price, and a supplemental invoice may be presented by the appropriate Builder at least 10 days prior to any subsequent Closing Date for settlement on such subsequent Closing Date for any increase in the Purchase Price; it being agreed by such Builder that any prior preliminary invoice or invoices presented by such Builder shall be in an amount not in excess of the final Purchase Price of such Group. If a supplemental invoice is presented to the Railroad by the Builder at least 10 days prior to any subsequent Closing Date with respect to any Group of Equipment, such supplemental invoice shall be settled for at such subsequent Closing Date. If a supplemental invoice is presented to the Railroad by a Builder after, or less than 10 business days prior to, the Closing Date when all units of the Equipment of the Builder shall have been delivered, accepted and settled for, but prior to the Repayment Date (as defined in Paragraph 4 of the Finance Agreement), the Railroad shall designate a Closing Date with respect to such supplemental invoice. If a supplemental invoice is presented by a Builder after the Repayment Date, it shall be paid in cash by the Railroad to such Builder in accordance with the terms of the original purchase order given by the Railroad and accepted by such Builder in respect of its Equipment.

The installments of the Indebtedness shall be payable semiannually on March 1 and September 1 in each year commencing on March 1, 1980, to and including September 1, 1994. The unpaid portion of the Indebtedness shall bear interest from the respective Closing Dates on which such Indebtedness was incurred at the rate of 10% per annum payable to the extent accrued, on March 1 and September 1 in each year, commencing March 1, 1980.

The term "Closing Date" with respect to any Group of the Equipment shall mean such date, on or after May 15, 1979, and prior to February 1, 1980 (the "Cut-Off Date"), not more than ten business days following presentation by the Builder of the Equipment in such Group to the Railroad of the invoice or a supplemental invoice, and with respect to any Group of the Equipment, the Certificate or Certificates of Acceptance for such Group, as shall be fixed by the Railroad by written notice delivered to the Vendor at least five business days prior to the Closing Date designated therein. The term "business days" as used herein means calendar days, excluding Saturdays, Sundays and any other day on which banking institutions in New York, New York, are authorized or obligated to remain closed.

All interest under this Agreement shall be calculated on the basis of a 360-day year of twelve 30-day months.

The Railroad will pay, to the extent legally enforceable, interest at the rate of 11% per annum upon all amounts remaining unpaid after the same shall have become due and payable pursuant to the terms hereof, anything herein to the contrary notwithstanding.

All payments provided for in this Agreement shall be made in such coin or currency of the United States of America as at the time of payment shall be legal tender for the payment of public and private debts. Except as provided in Article 8 hereof, the Railroad shall not have the privilege of prepaying any installment of Indebtedness prior to the date it becomes due.

ARTICLE 5. Taxes. All payments to be made by the Railroad hereunder will be free of expense to the Vendor for collection or other charges and will be free of expense to the Vendor with respect to the amount of any local, state, Federal or foreign taxes (other than net income, gross receipts [except gross receipts taxes in the nature of or in lieu of sales or use taxes], excess profits and similar taxes) or license fees, assessments, charges, fines or penalties hereafter levied or imposed upon or in connection with or measured by, this Agreement or any sale, use, payment, shipment, delivery or transfer of title under the terms

hereof (all such expenses, taxes, license fees, assessments, charges, fines and penalties being hereinafter called "Impositions"), all of which Impositions the Railroad assumes and shall pay on demand. The Railroad will also pay promptly all Impositions which may be imposed upon the Equipment delivered to it or for the use or operation thereof or upon the earnings arising therefrom or upon the Vendor solely by reason of its interest therein and will keep at all times all and every part of the Equipment free and clear of all Impositions which might in any way affect the title or interests of the Vendor or result in a lien upon any part of the Equipment; provided, however, that the Railroad shall be under no obligation to pay any Impositions of any kind so long as it is contesting in good faith and by appropriate legal proceedings such Impositions and the nonpayment thereof does not, in the opinion of the Vendor, adversely affect the title or interests of the Vendor in or to the Equipment or otherwise under this Agreement. If any such Impositions shall have been charged or levied against the Vendor directly and paid by the Vendor, the Railroad shall reimburse the Vendor upon presentation of an invoice therefor, and any amounts so paid by the Vendor shall be secured by and under this Agreement; provided, however, that the Railroad shall not be obligated to reimburse the Vendor for any Impositions so paid unless the Vendor shall have been legally liable with respect thereto (as evidenced by an opinion of counsel for the Vendor) or unless the Railroad shall have approved the payment thereof.

ARTICLE 6. Title to the Equipment. The Vendor shall and hereby does retain its title and interests in the Equipment until the Railroad shall have made all its payments under this Agreement and shall have kept and performed all its agreements herein contained, notwithstanding the delivery of the Equipment to and the possession and use thereof by the Railroad as provided in this Agreement. Any and all additions to the Equipment and any and all replacements of the Equipment and of parts thereof and additions thereto shall constitute accessions to the Equipment and shall be subject to all the terms and conditions of this Agreement and included in the term "Equipment" as used in this Agreement.

Except as otherwise specifically provided in Article 8 hereof, when and only when the full indebtedness in respect of the Purchase Price of the Equipment, together with

interest and all other payments as herein provided, shall have been paid, and all the Railroad's obligations herein contained shall have been performed by the Railroad, absolute right to the possession of, title to and property in the Equipment shall pass to and vest in the Railroad without further transfer or action on the part of the Vendor. However, the Vendor, if so requested by the Railroad at that time, will (a) execute a bill or bills of sale for the Equipment transferring and releasing its title to and interests therein to the Railroad, or upon its order, free of all claims, liens, interests and encumbrances created or retained hereby and deliver such bill or bills of sale to the Railroad at its address referred to in Article 22 hereof, (b) execute and deliver at the same place, for filing, in all necessary public offices, such instrument or instruments in writing as may be necessary or appropriate in order then to make clear upon the public records such transfer and release and (c) pay to the Railroad any money paid to the Vendor pursuant to Article 8 hereof and not theretofore applied as therein provided. The Railroad hereby waives and releases any and all rights, existing or that may be acquired, in or to the payment of any penalty, forfeit or damages for failure to execute and deliver such bill or bills of sale or instrument or instruments or to file any certificate of payment in compliance with any law or statute requiring the filing of the same, except for failure to execute and deliver such bill or bills of sale or instrument or instruments or to file such certificate within a reasonable time after written demand by the Railroad.

ARTICLE 7. Marking of the Equipment. The Railroad will cause each unit of the Equipment to be kept numbered with its identifying number as set forth in Schedule B hereto, or in the case of Equipment not there listed such identifying number as shall be set forth in any amendment or supplement hereto extending this Agreement to cover such Equipment, and will keep and maintain, plainly, distinctly, permanently and conspicuously marked on each side of each unit, in letters not less than one inch in height, the words "Ownership Subject to a Security Agreement Filed with the Interstate Commerce Commission", or the name of the Vendor followed by the words "Agent, Owner", or other appropriate markings approved by the Vendor, with appropriate changes thereof and additions thereto as from time to time may be required by law in order to protect the Vendor's title and interests in the Equipment and its rights under this Agreement. The Railroad will not place any such unit in operation or exercise any control or dominion over the same until such

markings have been made thereon and will replace promptly any such markings which may be removed, defaced, obliterated or destroyed. The Railroad will not change the number of any unit of the Equipment except in accordance with a statement of new number or numbers to be substituted therefor, which statement previously shall have been filed with the Vendor by the Railroad and filed by the Railroad in all public offices where this Agreement shall have been filed.

Except as provided in the preceding paragraph, the Railroad will not allow the name of any person, association or corporation to be placed on any unit of the Equipment as a designation that might be interpreted as a claim of ownership; provided, however, that the Railroad may cause the Equipment to be lettered with the names or initials or other insignia of the Railroad or its affiliates.

ARTICLE 8. Casualty Occurrences; Investments; Insurance. In the event that any unit of the Equipment shall be worn out, obsolete, lost, stolen, destroyed, irreparably damaged or otherwise rendered permanently unfit for use from any cause whatsoever, or taken or requisitioned by condemnation or otherwise (such occurrences being hereinafter called "Casualty Occurrences"), the Railroad shall fully inform the Vendor in regard thereto promptly after it has knowledge of such Casualty Occurrence. When the aggregate Casualty Value (as defined herein) of all units having suffered a Casualty Occurrence (exclusive of units having suffered a Casualty Occurrence with respect to which a payment shall have been made to the Vendor pursuant to this Article 8) hereunder shall exceed \$200,000, the Railroad shall, on the next date for the payment of principal or interest hereunder occurring 30 days after it has knowledge of such event, pay to the Vendor a sum equal to the aggregate Casualty Value of such units of the Equipment as of the date of such payment and shall file with the Vendor a certificate of an officer of the Railroad setting forth such Casualty Value.

So long as no event of default shall have occurred and be continuing, any money paid to the Vendor pursuant to the preceding paragraph of this Article 8 shall be used, as the Railroad shall direct in a written instrument filed with the Vendor within 30 days but no less than 10 days prior to the due date of the next semiannual installment of Indebtedness, in whole or in part, to prepay installments of Indebtedness or, in whole or in part, toward the cost of a unit or units of standard gauge railroad equipment (other

than passenger or work equipment) first put into service no earlier than the date of this Agreement, to replace units suffering a Casualty Occurrence. Any unit of replacement equipment shall have a remaining useful life (as evidenced by a certificate of a mechanical officer of the Railroad) at least as long as that which the Equipment being replaced would have had, but for the Casualty Occurrence. If such replacement equipment shall be equipment theretofore used in railroad service, the Railroad shall deliver to the Vendor a certificate of an officer of the Railroad that the cost of such equipment does not exceed the lesser of the fair value thereof or the original cost thereof less depreciation at a rate of 1/15 of such original cost for each year in service. In case any money is applied pursuant to this Article 8 to prepay Indebtedness, it shall be so applied to reduce each installment of Indebtedness thereafter falling due pro rata.

The Casualty Value of each unit of the Equipment (other than a replacement unit) shall be deemed to be that amount which bears the same ratio to the original Purchase Price thereof (less, in the event that the Railroad shall have made any payment or payments under the provisions of subparagraph (a) of the third paragraph of Article 4 hereof, an amount which bears the same ratio to the aggregate of all such payments as the original Purchase Price of such unit bears to the original aggregate Purchase Price of all the Equipment) as the unpaid Indebtedness (without giving effect to any prepayments then or theretofore made pursuant to this Article 8) as of the date payment is made with respect to such Casualty Occurrence bears to the original Indebtedness. The Casualty Value of each replacement unit shall be deemed to be that amount which bears the same ratio to the portion of the cost thereof paid by the Vendor as the unpaid Indebtedness (without giving effect to any prepayments then or theretofore made pursuant to this Article 8) as of the date payment is made with respect to such Casualty Occurrence bears to the unpaid Indebtedness (without giving effect to any such prepayments) as of the date of acquisition by the Vendor of such replacement unit.

The Railroad will cause any replacement unit or units to be marked as provided in Article 7 hereof. Any and all such replacements of Equipment shall constitute accessions to the Equipment and shall be subject to all appropriate terms and conditions of this Agreement as though part of the original Equipment delivered hereunder and shall

be included in the term "Equipment" as used in this Agreement; provided, however, that nothing herein shall result in any Builder having any liability or obligation with respect to any replacement unit or units not manufactured by it. Title to all such replacement units shall be free and clear of all liens and encumbrances except the liens permitted by the second paragraph of Article 13 hereof and shall be taken initially and shall remain in the name of the Vendor subject to the provisions hereof, and the Railroad shall execute, acknowledge, deliver, file, record or deposit all such documents and do any and all such acts as may be necessary to cause such replacement units to come under and be subject to this Agreement and to protect the title and interests of the Vendor in such replacement units. All such replacement units shall be guaranteed and warranted in like manner as is customary at the time for similar equipment.

Whenever the Railroad shall file with the Vendor a written direction to apply amounts toward the cost of any replacement unit or units, the Railroad shall file therewith in addition to any settlement documents which may be required pursuant to Article 16 hereof:

(1) a certificate of an officer of the Railroad certifying that such replacement unit is standard gauge railroad equipment (other than passenger or work equipment) first put into service no earlier than the date of this Agreement, and has been marked as required by the provisions of this Article 8 and certifying, in the event such replacement unit is new equipment, the cost of such replacement unit and, in the event such replacement unit shall be equipment theretofore used in railroad service, that the cost thereof to the Vendor does not exceed the lesser of the fair value thereof or the original cost thereof less depreciation at a rate equal to 1/15 of such original cost for each year in service, and that such replacement equipment has a remaining useful life at least as long as that which the Equipment being replaced would have had but for the Casualty Occurrence; and

(2) an opinion of counsel for the Railroad that security title to such replacement unit is vested in the Vendor, free and clear from all claims, liens, security interests and other encumbrances except the rights of the Railroad under this Agreement, and that such unit has come under and become subject to this Agreement and all necessary filings have been made to perfect the title and interests of the Vendor therein.

So long as no event of default shall have occurred and be continuing, any money paid to the Vendor pursuant to this Article 8 shall, if the Railroad shall in writing so direct, be invested, pending its application as hereinabove provided, in such of the following as may be specified in such written direction: (i) direct obligations of the United States of America or obligations for which the full faith and credit of the United States is pledged to provide for the payment of principal and interest, (ii) open market commercial paper rated A-1 or A-2 by Standard & Poor's Corporation or prime-1 by NCO/Moody's Commercial Paper Division of Moody's Investors Service, Inc., or the successor of either of them, or (iii) certificates of deposit of domestic commercial banks in the United States of America having total assets in excess of \$1,000,000,000, in each case maturing in not more than one year from the date of such investment or repurchase agreements with such banks to be collateralized by obligations set forth in (i) above (such investments being herein called "Investments"). Any such obligations shall from time to time be sold and the proceeds reinvested in such Investments as the Railroad may in writing direct. Any interest received by the Vendor on any Investments shall be held by the Vendor and applied as hereinafter provided. Upon any sale or the maturity of any Investments, the proceeds thereof, plus any interest received by the Vendor thereon, up to the cost (including accrued interest) thereof, shall be held by the Vendor for application pursuant to this Article 8, and any excess shall be paid to the Railroad. If such proceeds (plus such interest) shall be less than such cost, the Railroad will promptly pay to the Vendor an amount equal to such deficiency. The Railroad will pay all expenses incurred by the Vendor in connection with the purchase and sale of Investments.

If any unit of the Equipment is removed for repairs other than running repairs or becomes unsuitable or not necessary for continued use by the Railroad in the Railroad's business or operations, such occurrence shall, upon the election of the Railroad evidenced by written notice to the Vendor, constitute a Casualty Occurrence subject to the provisions of this Article 8; provided, however, that the Railroad shall direct any money paid to the Vendor in respect thereof to be applied only toward the cost of replacement equipment and not to prepay any installment of Indebtedness.

If one or more events of default shall have occurred and be continuing, all money held by the Vendor pursuant



to this Article 8 (including, for this purpose, Investments) shall be applied by the Vendor as if such money were money received upon the sale of Equipment pursuant to Article 18 hereof.

In order to facilitate the sale or other disposition of any Equipment suffering a Casualty Occurrence, the Vendor shall, upon request of the Railroad, after payment by the Railroad of a sum equal to the Casualty Value of such Equipment, execute and deliver to the Railroad or the Railroad's vendee, assignee or nominee, a bill of sale (without warranties) for such Equipment, and such other documents as may be required to release such Equipment from the terms and scope of this Agreement, in such form as may be reasonably requested by the Railroad.

The Railroad will at all times prior to the payment of the full indebtedness in respect of the Purchase Price of the Equipment, together with interest thereon and all other payments required hereby, at its own expense, cause to be carried and maintained insurance in respect of the Equipment at the time subject hereto to the extent and against risks comparable to those insured against by other railroads on similar equipment and, in any event, comparable to those insured against by the Railroad on similar equipment owned by it.

ARTICLE 9. Obligations of Guarantor. The Guarantor, for value received, hereby unconditionally guarantees to the Vendor the due and punctual performance of all obligations of the Railroad under this Agreement and the Finance Agreement and unconditionally guarantees to the Vendor that all sums payable by the Railroad under this Agreement and the Finance Agreement (including, but not limited to, all sums payable by the Railroad with respect to the Purchase Price of the Equipment) will be promptly paid when due in accordance with the provisions of this Agreement, together with interest thereon as herein provided, whether at stated maturity or by declaration or otherwise, and in case of default by the Railroad in any such obligations or payment the Guarantor agrees punctually to perform or pay the same, irrespective of any enforcement against the Railroad of any of the rights of the Vendor hereunder.

The Guarantor hereby agrees that its obligation hereunder shall be absolute and unconditional, irrespective of the genuineness, validity, regularity or enforceability

of this Agreement or any other circumstance which might otherwise constitute a legal or equitable discharge of a surety or guarantor. The Guarantor hereby waives diligence, presentment, demand of payment, protest, any notice of any assignment hereof in whole or in part or of any default hereunder and all notices with respect to this Agreement and all demands whatsoever hereunder. No waiver by the Vendor of any of its rights hereunder and no action by the Vendor to enforce any of its rights hereunder or failure to take, or delay in taking, any such action shall affect the obligations of the Guarantor hereunder.

In the event that the Guarantor shall make any payments to the Vendor on account of its guaranty hereunder, the Guarantor shall be subrogated to all rights of the Vendor against the Railroad and with respect to the Equipment to the extent of the amount so paid, but the rights of the Guarantor against the Railroad and with respect to the Equipment pursuant to such subrogation shall be subordinate in all respects to the rights of the Vendor and such rights of the Guarantor shall be enforceable only after, and subject to, full payment to the Vendor of all amounts payable hereunder, whether or not then due.

ARTICLE 10. Maintenance; Compliance with Laws.

The Railroad will at all times maintain the Equipment or cause the Equipment to be maintained in good order and repair at its own expense.

During the term of this Agreement, the Railroad will at all times comply in all respects with all laws of the jurisdictions in which its operations involving the Equipment may extend, with the interchange rules of the Association of American Railroads and with all lawful rules of the Department of Transportation, Interstate Commerce Commission and any other legislative, executive, administrative or judicial body exercising any power or jurisdiction over the Equipment, to the extent that such laws and rules affect the title, operation or use of the Equipment, and in the event that such laws or rules require any alteration or replacement of or addition to any part on any unit of the Equipment, the Railroad will conform therewith, at its own expense; provided, however, that the Railroad may, in good faith, contest the validity or application of any such law or rule in any reasonable manner which does not, in the reasonable opinion of the Vendor, adversely affect the property or rights of the Vendor under this Agreement.

ARTICLE 11. Reports and Inspections. On or before March 31 in each year, commencing with the year 1980, the Railroad shall furnish to the Vendor an accurate statement signed by an officer of the Railroad (a) setting forth as at the preceding December 31 the amount, description and numbers of all units of the Equipment that have suffered a Casualty Occurrence during the preceding 12 months (or since the date of this Agreement in the case of the first such statement) or that have been withdrawn from use pending repairs (other than running repairs) and such other information regarding the condition and state of repair of the Equipment as the Vendor may reasonably request and (b) stating that, in the case of all Equipment repaired or repainted during the period covered by such statement, the numbers and markings required by Article 7 hereof have been preserved or replaced. The Vendor shall have the right, by its agents, to inspect the Equipment and the Railroad's records with respect thereto at such reasonable times as the Vendor may request during the term of this Agreement.

ARTICLE 12. Possession and Use; Leasing. The Railroad, so long as an event of default shall not have occurred under this Agreement and be continuing, shall be entitled to the possession of the units of Equipment and the use thereof upon the lines of railroad owned or operated by it either alone or jointly with others and whether under lease or otherwise, or upon the lines of railroad owned or operated by any railroad company controlled by, or under common control with, the Railroad, or over which it has trackage rights, or upon connecting and other carriers in the usual interchange of traffic or pursuant to run-through agreements, and may enter into a written lease of one or more units of the Equipment for a term not exceeding one year with any affiliate or any other solvent United States corporation, from and after delivery of such units of Equipment by the Builder of such units to the Railroad, but only upon and subject to all the terms and conditions of this Agreement; provided, however, that any such lease permitted hereunder shall state expressly that the rights of the lessee thereunder are subject and subordinate to the rights and remedies of the Vendor under this Agreement; and, provided, further, however, that neither the Railroad nor any such lessee shall be entitled to assign the Equipment for use or service outside of the United States of America except in normal interchange.

ARTICLE 13. Prohibition Against Liens. The Railroad will pay or discharge any and all sums claimed by any party from, through or under the Railroad or its successors

or assigns which, if unpaid, might become a lien, charge or security interest on or in the Equipment, or any unit thereof, equal or superior to the Vendor's title and interests therein; provided, however, that the Railroad shall be under no obligation to pay or discharge any such claim so long as it is contesting in good faith and by appropriate legal proceedings such claim and the nonpayment thereof does not, in the opinion of the Vendor, adversely affect the title or interests of the Vendor in or to the Equipment or otherwise under this Agreement. Any amounts paid by the Vendor in discharge of liens, charges or security interests upon the Equipment shall be secured by and under this Agreement.

This covenant will not be deemed breached by reason of liens for taxes, assessments or governmental charges or levies, in each case not due and delinquent, or undetermined or inchoate materialmen's, mechanics', workmen's, repairmen's or other like liens arising in the ordinary course of business and, in each case, not delinquent.

ARTICLE 14. Railroad's Indemnities. The Railroad will indemnify, protect and hold harmless the Vendor from and against all losses, damages, injuries, liabilities, claims and demands whatsoever, regardless of the cause thereof, and expenses in connection therewith, including counsel fees, arising out of retention by the Vendor of title and interests in the Equipment, the use and operation thereof by the Railroad during the period when said title and interests remain in the Vendor or the transfer of said title and interests in the Equipment by the Vendor pursuant to any of the provisions of this Agreement. This covenant of indemnity shall continue in full force and effect notwithstanding the full payment of all sums due under this Agreement, or the satisfaction, discharge or termination of this Agreement in any manner whatsoever.

ARTICLE 15. Patent Indemnities; Builder's Warranty. Each Builder's warranty of material and workmanship and its patent indemnification agreement are set forth in Items 2 and 3, respectively, of Schedule A hereto. The patent indemnification agreements of each Builder shall continue in full force and effect notwithstanding the full payment of all sums due under this Agreement, or the satisfaction, discharge or termination of this Agreement in any manner whatsoever.

ARTICLE 16. Assignments. The Railroad will not sell, assign, transfer or otherwise dispose of its rights under this Agreement or, except as provided in Article 12

hereof, transfer the right to possession of any unit of the Equipment without first obtaining the written consent of the Vendor which shall not be unreasonably withheld.

All or any of the rights, benefits and advantages of the Vendor under this Agreement, including the right to receive the payments herein provided to be made by the Railroad, may be assigned by the Vendor and reassigned by any assignee at any time or from time to time. No such assignment shall subject any assignee to, or relieve any Builder from, any of the obligations of such Builder to construct and deliver its Equipment in accordance with this Agreement or to respond to its warranties and indemnities referred to in Article 15 hereof, or relieve the Railroad of any of its obligations to such Builder under Articles 2, 3, 4, 5, 14 and 15 hereof, Schedule A hereto and this Article 16 or of any other obligation which, according to its terms or context, is intended to survive an assignment.

Upon any such assignment either the assignor or the assignee shall give written notice to the Railroad, together with a counterpart or copy of such assignment, stating the identity and post office address of the assignee, and such assignee shall by virtue of such assignment acquire all the assignor's right, title and interest in and to the Equipment and this Agreement, or in and to a portion thereof, as the case may be, subject only to such reservations as may be contained in such assignment. From and after the receipt by the Railroad of the notification of any such assignment, all payments thereafter to be made by the Railroad under this Agreement to the Vendor shall, to the extent so assigned, be made to the assignee in such manner as it may direct.

The Railroad recognizes that it is the custom of railroad equipment manufacturers to assign conditional sale agreements and understands that the assignment of this Agreement, or of some of or all the rights of the Vendor hereunder, is contemplated. The Railroad expressly represents, for the purpose of assurance to any person, firm or corporation considering the acquisition of this Agreement or of all or any of the rights of the Vendor hereunder and for the purposes of inducing such acquisition, that in the event of such assignment by the Vendor as hereinbefore provided, the rights of such assignee to the entire unpaid Indebtedness

or such part thereof as may be assigned, together with interest thereon, as well as any other rights hereunder which may be so assigned, shall not be subject to any defense, setoff, counterclaim or recoupment whatsoever arising out of any breach of any obligation of a Builder with respect to the Equipment of such Builder or the manufacture, construction, delivery or warranty thereof, or with respect to any indemnity herein contained, nor subject to any defense, setoff, counterclaim or recoupment whatsoever arising by reason of any other indebtedness or liability at any time owing to the Railroad by a Builder. Any and all such obligations, howsoever arising, shall be and remain enforceable by the Railroad against and only against the respective Builders.

The Railroad will (a) in connection with each settlement for the Equipment subsequent to such assignment, deliver to the assignee, at least five business days prior to the Closing Date for the Group fixed in the notice by the Railroad, all documents required by the terms of such assignment to be delivered to such assignee in connection with such settlement, in such number of counterparts or copies as may reasonably be requested, and (b) furnish to such assignee such number of counterparts of any other certificate or document required by the Vendor as may reasonably be requested.

In the event that on or prior to the Cut-Off Date, this Agreement (a) shall not have been assigned by a Builder to the Agent under the Finance Agreement, to an institutional investor or to an agent acting for a group of institutional investors under a finance agreement providing for deposit with the agent by the institutional investors of an amount equal to the Indebtedness, by an instrument of assignment providing for payment to such Builder of an amount equal to the Indebtedness, or (b) shall have been so assigned by a Builder and the assignee shall not make payment to such Builder with respect to units of its Equipment or any supplemental invoice as provided in the instrument making such assignment or such assignee shall not be obligated, pursuant to the terms of such instrument of assignment, to make such payment, such Builder will promptly notify the Railroad of such event and, if such amount shall not have been previously paid by such assignee, the parties hereto will, upon the request of such Builder, enter into an appropriate written agreement with such Builder excluding from this Agreement those units of Equipment of such Builder for which the aggregate Purchase Price shall not have been received, but

fully preserving such Builder's security interest in such units in the manner acceptable to such Builder, and the Railroad will, not later than 90 days after the date such payment was due and prior to the Cut-Off Date, pay or cause to be paid to such Builder the aggregate unpaid Purchase Price of such units of its Equipment, together with interest from the date such payment was due to the date of payment by the Railroad at the highest prime rate of interest charged by any of the four New York City banks having the largest total assets in effect on the date such payment was due.

ARTICLE 17. Defaults. In the event that any one or more of the following events of default shall occur and be continuing, to wit:

(a) the Railroad shall fail to pay in full any indebtedness in respect of the Purchase Price of the Equipment or any other sum payable by the Railroad as provided in this Agreement within ten days after payment thereof shall be due hereunder; or

(b) the Railroad shall, for more than 30 days after the Vendor shall have demanded in writing performance thereof, fail or refuse to comply with any covenant, agreement, term or provision of this Agreement, or of any agreement entered into concurrently herewith relating to the financing of the Equipment on its part to be kept or performed or to make provision satisfactory to the Vendor for such compliance; or

(c) a petition for reorganization under Title 11 of the United States Code, as now constituted or as may be hereafter amended, shall be filed by or against the Railroad or the Guarantor and, unless such petition shall have been dismissed, nullified, stayed or otherwise rendered ineffective (but then only so long as such stay shall continue in force or such ineffectiveness shall continue), all the obligations of the Railroad or the Guarantor, as the case may be, under this Agreement shall not have been (and shall not continue to have been) duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees appointed (whether or not subject to ratification) in such proceedings in such manner that such obligations shall have the same status as obligations incurred by such trustee or trustees, within

60 days after such petition shall have been filed; or

(d) any other proceedings shall be commenced by or against the Railroad or the Guarantor for any relief under any bankruptcy or insolvency law, or law relating to the relief of debtors, readjustments of indebtedness, reorganizations, arrangements, compositions or extensions (other than a law which does not permit any readjustment of the Indebtedness payable hereunder), and, unless such proceedings shall have been dismissed, nullified, stayed or otherwise rendered ineffective (but then only so long as such stay shall continue in force or such ineffectiveness shall continue), all the obligations of the Railroad or the Guarantor, as the case may be, under this Agreement shall not have been (and shall not continue to have been) duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees or receiver or receivers appointed (whether or not subject to ratification) for the Railroad or the Guarantor, as the case may be, or for its property in connection with any such proceedings in such manner that such obligations shall have the same status as obligations incurred by such trustee or trustees or receiver or receivers, within 60 days after such proceedings shall have been commenced; or

(e) the Railroad shall make or suffer any unauthorized assignment or transfer of this Agreement or any interest herein or any unauthorized transfer of the right to possession of any unit of the Equipment;

then at any time after the occurrence of such an event of default the Vendor may, upon written notice to the Railroad and the Guarantor and upon compliance with any mandatory legal requirements then in force and applicable to such action by the Vendor, declare (hereinafter called a "Declaration of Default") the entire indebtedness in respect of the Purchase Price of the Equipment, together with the interest thereon then accrued and unpaid, immediately due and payable, without further demand, and thereafter the aggregate of the unpaid balance of such indebtedness and interest shall bear interest from the date of such Declaration of Default at the rate per annum specified in Article 4 hereof as being applicable to amounts remaining unpaid after becoming due and payable,



to the extent legally enforceable. The Vendor shall thereupon be entitled to recover judgment for the entire unpaid balance of the indebtedness in respect of the Purchase Price of the Equipment so payable, with interest as aforesaid, and to collect such judgment out of any property of the Railroad or the Guarantor wherever situated.

The Vendor may at its election waive any such event of default and its consequences and rescind and annul any Declaration of Default by notice to the Railroad and the Guarantor in writing to that effect, and thereupon the respective rights of the parties shall be as they would have been if no such event of default had occurred and no Declaration of Default had been made. Notwithstanding the provisions of this paragraph, it is expressly understood and agreed by the Railroad and the Guarantor that time is of the essence of this Agreement and that no such waiver, rescission or annulment shall extend to or affect any other or subsequent default or impair any rights or remedies consequent thereon.

ARTICLE 18. Remedies. At any time during the continuance of a Declaration of Default, the Vendor may, subject to compliance with any mandatory legal requirements then in force and applicable to the action to be taken by the Vendor, take or cause to be taken by its agent or agents immediate possession of the Equipment, or one or more of the units thereof, without liability to return to the Railroad or the Guarantor any sums theretofore paid and free from all claims whatsoever, except as hereinafter in this Article 18 expressly provided, and may remove the same from possession and use of the Railroad or any other person and for such purpose may enter upon the Railroad's premises or any other premises where the Equipment may be located and may use and employ in connection with such removal any supplies, services and aids and any available trackage and other facilities or means of the Railroad or the Guarantor.

In case the Vendor shall demand possession of the Equipment pursuant to this Agreement and shall reasonably designate a point or points upon the premises of the Railroad or Guarantor for the delivery of the Equipment to the Vendor, the Railroad shall, at its own expense, forthwith and in the usual manner (including, but not by way of limitation, giving prompt telegraphic and written notice to the Association of American Railroads and all railroads to which any part of the Equipment has been interchanged to return the Equipment so interchanged), cause (a) the Equipment

to be moved to such point or points on its or the Guarantor's lines as shall be designated by the Vendor and shall there deliver the Equipment or cause it to be delivered to the Vendor and (b) the Equipment to be moved to such interchange point or points of the Railroad or the Guarantor as shall be designated by the Vendor upon any sale, lease or other disposal of all or any part of the Equipment by the Vendor. At the option of the Vendor, the Vendor may keep the Equipment on any of the lines or premises of the Railroad or the Guarantor until the Vendor shall have leased, sold or otherwise disposed of the same, and for such purpose the Railroad and the Guarantor agree to furnish, without charge for rent or storage, the necessary facilities at any point or points selected by the Vendor reasonably convenient and to permit inspection of the Equipment by the Vendor, the Vendor's representatives and prospective purchasers and users. This agreement to deliver the Equipment and furnish facilities as hereinbefore provided is of the essence of the agreement between the parties, and, upon application to any court of equity having jurisdiction in the premises, the Vendor shall be entitled to a decree against the Railroad or the Guarantor requiring specific performance hereof. The Railroad and the Guarantor hereby expressly waive any and all claims against the Vendor and its agent or agents for damages of whatever nature in connection with any retaking of any unit of the Equipment in any reasonable manner.

At any time during the continuance of a Declaration of Default, the Vendor (after retaking possession of the Equipment as hereinbefore in this Article 18 provided) may at its election and upon such notice as is hereinafter set forth retain the Equipment in satisfaction of the entire indebtedness in respect of the Purchase Price of the Equipment and make such disposition thereof as the Vendor shall deem fit. Written notice of the Vendor's election to retain the Equipment shall be given to the Railroad and the Guarantor by telegram or registered mail, addressed as provided in Article 22 hereof, and to any other persons to whom the law may require notice, within 30 days after such Declaration of Default. In the event that the Vendor should elect to retain the Equipment and no objection is made thereto within the 30-day period described in the second proviso below, all the Railroad's rights in the Equipment shall thereupon terminate and all payments made by the Railroad or the Guarantor may be retained by the Vendor as compensation for the use of the Equipment by the Railroad; provided, however, that if the Railroad, before the

expiration of the 30-day period described in the proviso below, should pay or cause to be paid to the Vendor the total unpaid balance of the indebtedness in respect of the Purchase Price of the Equipment, together with interest thereon accrued and unpaid and all other payments due under this Agreement as well as expenses of the Vendor in retaking possession of, removing and storing the Equipment and the Vendor's reasonable attorneys' fees, then in such event absolute right to the possession of, title to and property in the Equipment shall pass to and vest in the Railroad; provided, further, that if the Railroad or any other persons notified under the terms of this paragraph object in writing to the Vendor within 30 days from the receipt of notice of the Vendor's election to retain the Equipment, then the Vendor may not so retain the Equipment, but shall sell, lease or otherwise dispose of it or continue to hold it pending sale, lease or other disposition as hereinafter provided or as may otherwise be permitted by law. If the Vendor shall have given no notice to retain as hereinabove provided or notice of intention to dispose of the Equipment in any other manner, it shall be deemed to have elected to sell the Equipment in accordance with the provisions of this Article 18.

At any time during the continuance of a Declaration of Default, the Vendor, with or without retaking possession thereof, at its election and upon reasonable notice to the Railroad and to any other persons to whom the law may require notice of the time and place, may sell the Equipment, or any unit thereof, free from any and all claims of the Railroad or any other party claiming from, through or under the Railroad, at law or in equity, at public or private sale and with or without advertisement as the Vendor may determine; provided, however, that if, prior to such sale and prior to the making of a contract for such sale, the Railroad should tender full payment of the total unpaid balance of the indebtedness in respect of the Purchase Price of the Equipment, together with interest thereon accrued and unpaid and all other payments due under this Agreement as well as expenses of the Vendor in retaking possession of, removing, storing, holding and preparing the Equipment for, and otherwise arranging for, the sale and the Vendor's reasonable attorneys' fees, then in such event absolute right to the possession of, title to and property in the Equipment shall pass to and vest in the Railroad. The proceeds of such sale, less the attorneys' fees and any other expenses incurred by

the Vendor in retaking possession of, removing, storing, holding, preparing for sale and selling the Equipment, shall be credited on the amount due to the Vendor under the provisions of this Agreement.

Any sale hereunder may be held or conducted at such place or places and at such time or times as the Vendor may specify, in one lot and as an entirety or in separate lots and without the necessity of gathering at the place of sale the property to be sold, and in general in such manner as the Vendor may determine. The Vendor may bid for and become the purchaser of the Equipment, or any unit thereof, so offered for sale. The Railroad and the Guarantor shall be given written notice of such sale not less than ten days prior thereto, by telegram or registered mail addressed to the Railroad and the Guarantor as provided in Article 22 hereof. If such sale shall be a private sale (which shall be deemed to mean only a sale where an advertisement for bids has not been published in a newspaper of general circulation or a sale where less than 40 offerees have been solicited in writing to submit bids), it shall be subject to the right of the Railroad to purchase or provide a purchaser, within ten days after notice of the proposed sale price, at the same price offered by the intending purchaser or a better price. In the event that the Vendor shall be the purchaser of the Equipment, it shall not be accountable to the Railroad (except to the extent of surplus money received as hereinafter provided in this Article 18), and in payment of the purchase price therefor the Vendor shall be entitled to have credited on account thereof all or any part of the sums due to the Vendor from the Railroad hereunder. From and after the date of any such sale, the Railroad shall pay to the Vendor the per diem interchange for each unit of Equipment which shall not have been assembled, as hereinabove provided, by the date of such sale for each day from the date of such sale to the date of delivery to the purchaser at such sale.

Each and every power and remedy hereby specifically given to the Vendor shall be in addition to every other power and remedy hereby specifically given or now or hereafter existing at law or in equity, and each and every power and remedy may be exercised from time to time and simultaneously and as often and in such order as may be deemed expedient by the Vendor. All such powers and remedies shall be cumulative, and the exercise of one shall not be deemed a waiver of the right to exercise any other or others. No delay or omission of the Vendor in the exercise of any such power

or remedy and no renewal or extension of any payments due hereunder shall impair any such power or remedy or shall be construed to be a waiver of any default or an acquiescence therein. Any extension of time for payment hereunder or other indulgence duly granted to the Railroad shall not otherwise alter or affect the Vendor's rights or the Railroad's obligations hereunder. The Vendor's acceptance of any payment after it shall have become due hereunder shall not be deemed to alter or affect the Railroad's obligations or the Vendor's rights hereunder with respect to any subsequent payments or default therein.

If, after applying all sums of money realized by the Vendor under the remedies herein provided, there shall remain any amount due to it under the provisions of this Agreement, the Railroad shall pay the amount of such deficiency to the Vendor upon demand, together with interest from the date of such demand to the date of payment by the Railroad at the rate per annum set forth in Article 4 hereof applicable to amounts remaining unpaid after becoming due and payable. If the Railroad shall fail to pay such deficiency, the Vendor may bring suit therefor and shall be entitled to recover a judgment therefor against the Railroad. If, after applying as aforesaid all sums realized by the Vendor, there shall remain a surplus in the possession of the Vendor, such surplus shall be paid to the Railroad.

The Railroad will pay all reasonable expenses, including attorneys' fees, incurred by the Vendor in enforcing its remedies under the terms of this Agreement. In the event that the Vendor shall bring any suit to enforce any of its rights hereunder and shall be entitled to judgment, then in such suit the Vendor may recover reasonable expenses, including attorneys' fees, and the amount thereof shall be included in such judgment.

The foregoing provisions of this Article 18 are subject in all respects to all mandatory legal requirements at the time in force and applicable thereto.

ARTICLE 19. Applicable State Laws. Any provision of this Agreement prohibited by any applicable law of any jurisdiction shall as to such jurisdiction be ineffective, without modifying the remaining provisions of this Agreement. Where, however, the conflicting provisions of any such applicable law may be waived, they are hereby waived by the Railroad and the Guarantor to the full extent permitted by law, it being the

intention of the parties hereto that this Agreement shall be deemed to be a conditional sale and enforced as such.

Except as otherwise provided in this Agreement, the Railroad and the Guarantor, to the full extent permitted by law, hereby waive all statutory or other legal requirements for any notice of any kind, notice of intention to take possession of or to sell or lease the Equipment or any unit thereof, and any other requirements as to the time, place and terms of the sale or lease thereof, any other requirements with respect to the enforcement of the Vendor's rights under this Agreement and any and all rights of redemption.

ARTICLE 20. Recording. The Railroad will cause this Agreement, any assignments hereof and any amendments or supplements hereto or thereto to be filed with the Interstate Commerce Commission in accordance with 49 U.S.C. § 11303; and the Railroad will from time to time do and perform any other act and will execute, acknowledge, deliver, file, register, deposit and record any and all further instruments required by law or reasonably requested by the Vendor for the purpose of proper protection, to the satisfaction of counsel for the Vendor, of its interest in the Equipment and its rights under this Agreement or for the purpose of carrying out the intention of this Agreement; and the Railroad will promptly furnish to the Vendor certificates or other evidence of such filing, registering, depositing and recording satisfactory to the Vendor.

ARTICLE 21. Payment of Expenses. The Railroad will pay all reasonable costs and expenses (other than the fees and expenses of counsel for the Builders) incident to this Agreement and any assignment of this Agreement (including the fees and expenses of an agent, if the assignee is an agent), and any instrument supplemental or related hereto or thereto, including all fees and expenses of Messrs. Cravath, Swaine & Moore, special counsel for the first assignee of this Agreement and for any party acquiring interests in such first assignment, and all reasonable costs and expenses in connection with the transfer by any party of interests acquired in such first assignment.

ARTICLE 22. Notice. Any notice hereunder to any of the parties designated below shall be deemed to be properly served if delivered or mailed to it at its chief place of business at the following specified addresses:

(a) to the Railroad or the Guarantor, at 114 West Eleventh Street, Kansas City, Missouri 64105,

(b) to a Builder, at its address specified in Item 1 of Schedule A hereto, and

(c) to any assignee of the Vendor or of the Railroad, at such address as may have been furnished in writing to each of the other parties hereto by such assignee,

or at such other address as may have been furnished in writing by such party to the other parties to this Agreement.

ARTICLE 23. Article Headings; Effect and Modification of Agreement. All article headings are inserted for convenience only and shall not affect any construction or interpretation of this Agreement.

This Agreement, including the Schedules hereto, exclusively states the rights of the Vendor, the Railroad and the Guarantor with respect to the Equipment and supersedes all other agreements, oral or written, with respect to the Equipment. No variation or modification of this Agreement and no waiver of any of its provisions or conditions shall be valid unless in writing and signed by duly authorized officers of the Vendor, the Railroad and the Guarantor.

ARTICLE 24. Law Governing. The terms of this Agreement and all rights and obligations hereunder shall be governed by the laws of the State of Missouri; provided, however, that the parties shall be entitled to all rights conferred by 49 U.S.C. § 11303 and such additional rights arising out of the filing, recording or deposit hereof, if any, and of any assignment hereof as shall be conferred by the laws of the several jurisdictions in which this Agreement or any assignment hereof shall be filed, recorded or deposited.

ARTICLE 25. Execution. This Agreement may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, and such counterparts together shall constitute but one and the same contract, which shall be sufficiently evidenced by any such original counterpart. It shall not be necessary that any counterpart be signed by all the parties so long as any counterpart be signed by the Railroad, the Guarantor and one or more Builders. Each Builder shall be bound hereunder notwithstanding the failure of any other Builder to execute and deliver this Agreement or to perform its obligations

hereunder. Although this Agreement is dated, for convenience, as of the date first set forth above, the actual date or dates of execution hereof by the parties hereto is or are, respectively, the date or dates stated in the acknowledgments hereto annexed.

IN WITNESS WHEREOF, the parties hereto, each pursuant to due corporate authority, have caused this instrument to be executed in their respective corporate names by their officers or other persons, thereunto duly authorized, and their respective corporate seals to be hereunto affixed, duly attested, all as of the date first above written.

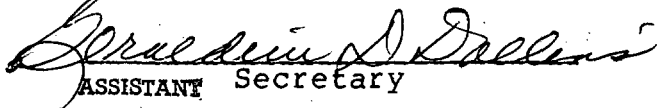
LOUISIANA & ARKANSAS RAILWAY  
COMPANY,

[Corporate Seal]

by

  
Vice President

Attest:

  
ASSISTANT Secretary

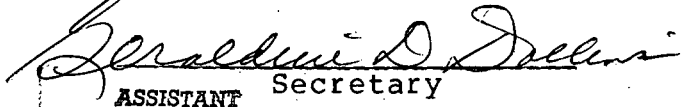
THE KANSAS CITY SOUTHERN RAILWAY  
COMPANY,

[Corporate Seal]

by

  
Vice President

Attest:

  
ASSISTANT Secretary

BETHLEHEM STEEL CORPORATION,

by

\_\_\_\_\_  
Vice President

[Corporate Seal]

Attest:

\_\_\_\_\_  
Assistant Secretary



GENERAL MOTORS CORPORATION  
(Electro-Motive Division),

by

P.K. Haglund  
Vice President

[Corporate Seal]

Attest:

M.H. Thomas  
Assistant Secretary

PULLMAN INCORPORATED (Pullman  
Standard Division),

by

Stanley Brown  
Vice President--Freight Unit

[Corporate Seal]

Attest:

William O. Edger  
Assistant Secretary

STATE OF MISSOURI, )  
 ) ss.:  
COUNTY OF JACKSON, )

On this 25<sup>th</sup> day of May 1979 before me personally appeared D.E. Kellogg, to me personally known, who, being by me duly sworn, says that he is a Vice President of LOUISIANA & ARKANSAS RAILWAY COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said Corporation, that said instrument was signed and sealed on behalf of said Corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said Corporation.

Irene Pauline  
Notary Public

My Commission Expires  
IRENE PAULHE  
Notary Public - State of Missouri  
Commissioned in Platte County  
My Commission Expires March 22, 1983

[Notarial Seal]

STATE OF MISSOURI, )  
 ) ss.:  
COUNTY OF JACKSON, )

On this 25<sup>th</sup> day of May 1979 before me personally appeared *D.E. Kellogg*, to me personally known, who, being by me duly sworn, says that he is a Vice President of THE KANSAS CITY SOUTHERN RAILWAY COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said Corporation, that said instrument was signed and sealed on behalf of said Corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said Corporation.

Irene Paulke  
Notary Public

[Notarial Seal]

**My Commission Expires**  
**IRENE PAULHE**  
**Notary Public - State of Missouri**  
**Commissioned in Platte County**  
**My Commission Expires March 22, 1983**

STATE OF ILLINOIS, )  
 ) ss.:  
COUNTY OF COOK, )


On this 23<sup>rd</sup> day of May 1979 before me personally appeared Stanley Brown, to me personally known, who, being by me duly sworn, says that he is the Vice President--Freight Unit of PULLMAN INCORPORATED (Pullman Standard Division), that one of the seals affixed to the foregoing instrument is the corporate seal of said Corporation, that said instrument was signed and sealed on behalf of said Corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said Corporation.

Janice K. Pentney  
Notary Public

[Notarial Seal]

STATE OF ILLINOIS, )  
 ) ss.:  
COUNTY OF COOK, )

On this 24TH day of May 1979 before me personally appeared P. K. HOGLUND, to me personally known, who, being by me duly sworn, says that he is a Vice President of GENERAL MOTORS CORPORATION (Electro-Motive Division), that one of the seals affixed to the foregoing instrument is the corporate seal of said Corporation, that said instrument was signed and sealed on behalf of said Corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said Corporation.

  
Notary Public

[Notarial Seal]

My Commission expires JANUARY 17, 1983

COMMONWEALTH OF PENNSYLVANIA, )  
 ) ss.:  
COUNTY OF LEHIGH, )

On this            day of May 1979 before me personally appeared            , to me personally known, who, being by me duly sworn, says that he is a Vice President of BETHLEHEM STEEL CORPORATION, that one of the seals affixed to the foregoing instrument is the corporate seal of said Corporation, that said instrument was signed and sealed on behalf of said Corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said Corporation.

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Notary Public

[Notarial Seal]

## SCHEDULE A

to

## Conditional Sale Agreement

- Item 1:
- (a) Bethlehem Steel Corporation, a Delaware corporation, Bethlehem, Pennsylvania 18016, Attention of Manager of Railroad Products Sales.
  - (b) General Motors Corporation (Electro-Motive Division), a Delaware corporation, La Grange, Illinois 60525.
  - (c) Pullman Incorporated (Pullman Standard Division), a Delaware corporation, 200 South Michigan Avenue, Chicago, Illinois 60604.
- Item 2:
- (a) General Motors Corporation (Electro-Motive Division) ("GM") warrants that its Equipment is of the kind and quality described in, or will be built in accordance with, the Specifications therefor referred to in Article 2 of the Agreement to which this Schedule A is attached and is suitable for the ordinary purposes for which such Equipment is used and warrants each unit of its Equipment to be free from defects in material and workmanship which may develop under normal use and service within two years from date of delivery of such unit or before such unit has been operated 250,000 miles, whichever event shall first occur. GM agrees to correct such defects, which examination shall disclose to its satisfaction to be defective, by repair or replacement F.O.B. factory and such correction shall constitute fulfillment of its obligation with respect to such defect under this warranty.

GM warrants specialties not of its own specification or design to the same extent that the suppliers of such specialties warrant such items to GM.

THERE ARE NO WARRANTIES WITH RESPECT TO MATERIAL AND WORKMANSHIP, EXPRESSED OR IMPLIED, MADE BY GM EXCEPT THE WARRANTIES SET OUT ABOVE.

GM further agrees with the railroad that neither the inspection as provided in Article 3 of the Agreement, nor any examination, nor the acceptance of any units of the Equipment as provided in said Article 3 shall be deemed a waiver or modification by the Railroad of any of its rights under this Item 2(a).

(b) Bethlehem Steel Corporation ("Bethlehem") warrants that its Equipment will be built in accordance with the Specifications and the standards and requirements set forth in Article 2 of the Agreement to which this Schedule A is attached (the "Agreement") and warrants its Equipment will be free from defects in material (except as to specialties incorporated therein specified or supplied by the Railroad and not manufactured by Bethlehem) and workmanship under normal use and service, Bethlehem's obligation under this Item 2(b) being limited to making good at its plant any part or parts of any unit of its Equipment which shall, within one year after the delivery of such unit to the Railroad, be returned to Bethlehem with transportation charges prepaid and which Bethlehem's examination shall disclose to its satisfaction to have been thus defective.

The foregoing warranty of Bethlehem is expressly in lieu of all other warranties, expressed or implied, including any implied warranty of merchantability or fitness for a particular purpose, and Bethlehem neither assumes nor authorizes any person to assume for it any other liability in connection with the construction and delivery of its Equipment, except for the patent indemnification included in Article 15 of the Agreement as aforesaid. It is further understood that in no event shall Bethlehem be liable for indirect or consequential damages of any kind.

Bethlehem further agrees with the Railroad that neither the inspection as provided in Article 3 of the Agreement, nor any examination, nor the acceptance of any units of its

Equipment as provided in said Article 3 shall be deemed a waiver or a modification by the Railroad of any of its rights under this Item 2(b).

(c) Pullman Incorporated (Pullman Standard Division) ("Pullman") warrants that the equipment will be built in accordance with the specifications and requirements set forth in Article 2 of the Agreement to which this Schedule A is attached (the "Agreement"). Pullman further warrants that its Equipment will be free from defects in material (except as to items or specialties incorporated therein which were specified or supplied by the Railroad and not manufactured by Pullman) and workmanship under normal use and service, Pullman's obligation under this item 2(c) being limited to making good at its plant any part or parts of any unit of its Equipment which shall, within one year after delivery of such unit to the Railroad, be returned to Pullman with transportation charges prepaid and which Pullman's examination shall disclose to its satisfaction such part or parts to have been defective; provided, however, that this warranty will be subject to the following limitations: (i) warranty coverage on unit running gear and contact points to unit structure is restricted to one year or 25,000 miles, whichever first occurs; and (ii) normal use and service is deemed to require inspection, adjustment, maintenance and compliance with Pullman's written instructions and any applicable Federal, state or local laws or regulations.

Pullman MAKES NO WARRANTY OF MERCHANTABILITY OR FITNESS FOR PARTICULAR PURPOSE. The Railroad's right under the foregoing warranty shall be its sole and exclusive remedy and Pullman will have no liability for lost profits or for indirect, incidental, consequential or commercial losses. This warranty is expressly in lieu of all other warranties expressed or implied on the part of Pullman, except for its obligations and liabilities under Articles 2, 3, 4 and 15 of the Agreement. Pullman neither

assumes nor authorizes any person to assume for it any other warranty liability in connection with the construction and delivery of its Equipment.

Pullman further agrees with the Railroad that neither the inspection as provided in Article 3 of the Agreement, nor any examination, nor the acceptance of any units of its Equipment as provided in said Article 3 shall be deemed a waiver of its rights under this Item 2(c).

Item 3:

(a) GM shall defend any suit or proceeding brought against the Railroad and/or each assignee of GM's rights under the Agreement so far as the same is based on a claim that the Equipment of GM's specification, or any part thereof, furnished under the Agreement constitutes an infringement of any patent, if notified promptly in writing and given authority, information and assistance (at GM's expense) for the defense of same, and GM shall pay all damages and costs awarded therein against the Railroad and/or any such assignee.

In case any unit of such Equipment, or any part thereof, is in such suit held to constitute infringement and the use of such unit or part is enjoined, GM shall at its option and its own expense either procure for the Railroad and any such assignee the right to continue using such unit or part, or replace the same with noninfringing equipment subject to the Agreement, or modify it so it becomes noninfringing, or remove such unit and refund the Purchase Price and the transportation and installation costs thereof. If the Purchase Price is so refunded, such refund shall be made to the assignee of GM's rights under the Agreement if this Agreement has been so assigned, which refund, to the extent of the unpaid Indebtedness, shall be applied in like manner as payments in respect of Casualty Occurrences under Article 8 of the Agreement and, as long as no event of default or event which with the lapse of time and/or demand could constitute an event of default



under the Agreement shall have occurred and be continuing, the balance shall be paid by such assignee to the Railroad.

GM will not assume liability for patent infringement by reason of purchase, manufacture, sale or use of devices not included in and covered by its specifications.

The foregoing states the entire liability of GM for patent infringement by its Equipment or any part thereof.

(b) Bethlehem and Pullman each severally agrees as follows:

Except in cases of articles or materials specified by the Railroad and not manufactured by such Builder and in cases of designs, systems, processes, formulae or combinations specified by the Railroad and not developed or purported to be developed by such Builder, each Builder agrees to indemnify, protect and hold harmless the Railroad from and against any and all liability, claims, costs, charges and expenses, including royalty payments and counsel fees, in any manner imposed upon or accruing against the Railroad, its assigns or the users of the Equipment of such Builder because of the use in or about the construction or operation of any of such Equipment of any design, system, process, formula, combination, article or material which infringes or is claimed to infringe on any patent or other right. The Railroad likewise will indemnify, protect and hold harmless the Vendor from and against any and all liability, claims, costs, charges and expenses, including royalty payments and counsel fees, in any manner imposed upon or accruing against the Vendor because of the use in or about the construction or operation of any of the Equipment of any article or material specified by the Railroad and not manufactured by the Builder of such Equipment or of any design, system, process, formula or combination specified by the Railroad and not developed or purported to be developed by such Builder which infringes or is

claimed to infringe on any patent or other right. Each Builder agrees to and hereby does, to the extent legally possible without impairing any claim, right or cause of action hereinafter referred to, assign, set over and deliver to the Railroad every claim, right and cause of action which such Builder has or hereafter shall have against the seller or sellers of any designs, systems, processes, formulae, combination, articles or materials specified by the Railroad and purchased or otherwise acquired by such Builder for use in or about the construction or operation of any of the Equipment of such Builder on the ground that any such design, system, process, formula, combination, article or material or operation thereof infringes or is claimed to infringe on any patent or other right. Each Builder further agrees to execute and deliver to the Railroad or the users of the Equipment of such Builder all and every such further assurance as may be reasonably requested by the Railroad more fully to effectuate the assignment and delivery of every such claim, right and cause of action. Each Builder will give notice to the Railroad of any claim known to such Builder from which liability may be charged against the Railroad hereunder and the Railroad will give notice to such Builder of any claim known to the Railroad from which liability may be charged against the Builder hereunder. Such covenants of indemnity shall continue in full force and effect notwithstanding the full payment of all sums due under this Agreement, or the satisfaction, discharge or termination of this Agreement in any manner whatsoever.

SCHEDULE B

Builder	Type	AAR Mechanical Designation	Builder's Specifications	Builder's Plant	Quantity	Unit		Total Base Price	Road Numbers (Inclusive)	Estimated Time and Place of Delivery
						Base Price				
General Motors Corporation (Electro-Motive Division)	3,500 h.p. diesel electric locomotive Model SD 40X	C-C	8111	LaGrange, Illinois	4	\$775,000		\$ 3,100,000	KCS 700-703	September-October 1979
General Motors Corporation (Electro-Motive Division)	3,000 h.p. diesel electric locomotive Model GP 40-2	B-B	8091	LaGrange, Illinois	2	640,000		1,280,000	KCS 900 and 901	July-August 1979
Bethlehem Steel Corporation	Open top hopper cars	HT	DF 3400-504	Johnstown, Pa.	200	36,500		7,300,000	See Schedule B-1 attached hereto	June 1979 at Johnstown, Pa.
Pullman Incorporated	100 ton 50'6" Box Cars	XM	No. 3824, dated 5/24/78, as amended	Bessemer, Alabama	200	42,730		8,546,000	See Schedule B-2 attached hereto	October 1979 at Bessemer, Alabama
Total								\$20,226,000		

## NEW CARS

OPEN TOP HOPPER CARS  
Bethlehem Steel Corporation (Builder)

## STENCILED

KCS 220001	KCS 220566	KCS 221121	KCS 221686
KCS 220019	KCS 220574	KCS 221139	KCS 221694
KCS 220027	KCS 220582	KCS 221147	KCS 221708
KCS 220035	KCS 220591	KCS 221155	KCS 221716
KCS 220043	KCS 220604	KCS 221163	KCS 221724
KCS 220051	KCS 220612	KCS 221171	KCS 221732
KCS 220060	KCS 220621	KCS 221180	KCS 221741
KCS 220078	KCS 220639	KCS 221198	KCS 221759
KCS 220086	KCS 220647	KCS 221201	KCS 221767
KCS 220094	KCS 220655	KCS 221210	KCS 221775
KCS 220108	KCS 220663	KCS 221228	KCS 221783
KCS 220116	KCS 220671	KCS 221236	KCS 221791
KCS 220124	KCS 220680	KCS 221244	KCS 221805
KCS 220132	KCS 220698	KCS 221252	KCS 221813
KCS 220141	KCS 220701	KCS 221261	KCS 221821
KCS 220159	KCS 220710	KCS 221279	KCS 221830
KCS 220167	KCS 220728	KCS 221287	KCS 221848
KCS 220175	KCS 220736	KCS 221295	KCS 221856
KCS 220183	KCS 220744	KCS 221309	KCS 221864
KCS 220191	KCS 220752	KCS 221317	KCS 221872
KCS 220205	KCS 220761	KCS 221325	KCS 221881
KCS 220213	KCS 220779	KCS 221333	KCS 221899
KCS 220221	KCS 220787	KCS 221341	KCS 221902
KCS 220230	KCS 220795	KCS 221350	KCS 221911
KCS 220248	KCS 220809	KCS 221368	KCS 221929
KCS 220256	KCS 220817	KCS 221376	KCS 221937
KCS 220264	KCS 220825	KCS 221384	KCS 221945
KCS 220272	KCS 220833	KCS 221392	KCS 221953
KCS 220281	KCS 220841	KCS 221406	KCS 221961
KCS 220299	KCS 220850	KCS 221414	KCS 221970
KCS 220302	KCS 220868	KCS 221422	KCS 221988
KCS 220311	KCS 220876	KCS 221431	KCS 221996
KCS 220329	KCS 220884	KCS 221449	
KCS 220337	KCS 220892	KCS 221457	
KCS 220345	KCS 220906	KCS 221465	
KCS 220353	KCS 220914	KCS 221473	
KCS 220361	KCS 220922	KCS 221481	
KCS 220370	KCS 220931	KCS 221490	
KCS 220388	KCS 220949	KCS 221503	
KCS 220396	KCS 220957	KCS 221511	
KCS 220400	KCS 220965	KCS 221520	
KCS 220418	KCS 220973	KCS 221538	
KCS 220426	KCS 220981	KCS 221546	
KCS 220434	KCS 220990	KCS 221554	
KCS 220442	KCS 221007	KCS 221562	
KCS 220451	KCS 221015	KCS 221571	
KCS 220469	KCS 221023	KCS 221589	
KCS 220477	KCS 221031	KCS 221597	
KCS 220485	KCS 221040	KCS 221601	
KCS 220493	KCS 221058	KCS 221619	
KCS 220507	KCS 221066	KCS 221627	
KCS 220515	KCS 221074	KCS 221635	
KCS 220523	KCS 221082	KCS 221643	
KCS 220531	KCS 221091	KCS 221651	
KCS 220540	KCS 221104	KCS 221660	
KCS 220558	KCS 221112	KCS 221678	

## NEW CARS

## STENCILED

## BOX CARS

Pullman Incorporated (Builder)

## SCHEDULE B-2

KCS 170003	KCS 170569	KCS 171123	KCS 171689
KCS 170011	KCS 170577	KCS 171131	KCS 171697
KCS 170020	KCS 170585	KCS 171140	KCS 171701
KCS 170038	KCS 170593	KCS 171158	KCS 171719
KCS 170046	KCS 170607	KCS 171166	KCS 171727
KCS 170054	KCS 170615	KCS 171174	KCS 171735
KCS 170062	KCS 170623	KCS 171182	KCS 171743
KCS 170071	KCS 170631	KCS 171191	KCS 171751
KCS 170089	KCS 170640	KCS 171204	KCS 171760
KCS 170097	KCS 170658	KCS 171212	KCS 171778
KCS 170101	KCS 170666	KCS 171221	KCS 171786
KCS 170119	KCS 170674	KCS 171239	KCS 171794
KCS 170127	KCS 170682	KCS 171247	KCS 171808
KCS 170135	KCS 170691	KCS 171255	KCS 171816
KCS 170143	KCS 170704	KCS 171263	KCS 171824
KCS 170151	KCS 170712	KCS 171271	KCS 171832
KCS 170160	KCS 170721	KCS 171280	KCS 171841
KCS 170178	KCS 170739	KCS 171298	KCS 171859
KCS 170186	KCS 170747	KCS 171301	KCS 171867
KCS 170194	KCS 170755	KCS 171310	KCS 171875
KCS 170208	KCS 170763	KCS 171328	KCS 171883
KCS 170216	KCS 170771	KCS 171336	KCS 171891
KCS 170224	KCS 170780	KCS 171344	KCS 171905
KCS 170232	KCS 170798	KCS 171352	KCS 171913
KCS 170241	KCS 170801	KCS 171361	KCS 171921
KCS 170259	KCS 170810	KCS 171379	KCS 171930
KCS 170267	KCS 170828	KCS 171387	KCS 171948
KCS 170275	KCS 170836	KCS 171395	KCS 171956
KCS 170283	KCS 170844	KCS 171409	KCS 171964
KCS 170291	KCS 170852	KCS 171417	KCS 171972
KCS 170305	KCS 170861	KCS 171425	KCS 171981
KCS 170313	KCS 170879	KCS 171433	KCS 171999
KCS 170321	KCS 170887	KCS 171441	
KCS 170330	KCS 170895	KCS 171450	
KCS 170348	KCS 170909	KCS 171468	
KCS 170356	KCS 170917	KCS 171476	
KCS 170364	KCS 170925	KCS 171484	
KCS 170372	KCS 170933	KCS 171492	
KCS 170381	KCS 170941	KCS 171506	
KCS 170399	KCS 170950	KCS 171514	
KCS 170402	KCS 170968	KCS 171522	
KCS 170411	KCS 170976	KCS 171531	
KCS 170429	KCS 170984	KCS 171549	
KCS 170437	KCS 170992	KCS 171557	
KCS 170445	KCS 171000	KCS 171565	
KCS 170453	KCS 171018	KCS 171573	
KCS 170461	KCS 171026	KCS 171581	
KCS 170470	KCS 171034	KCS 171590	
KCS 170485	KCS 171042	KCS 171603	
KCS 170496	KCS 171051	KCS 171611	
KCS 170500	KCS 171069	KCS 171620	
KCS 170519	KCS 171077	KCS 171638	
KCS 170526	KCS 171085	KCS 171646	
KCS 170534	KCS 171093	KCS 171654	
KCS 170542	KCS 171107	KCS 171662	
KCS 170551	KCS 171115	KCS 171671	

## AGREEMENT AND ASSIGNMENT

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AGREEMENT AND ASSIGNMENT, dated as of April 15, 1979, between CHEMICAL BANK, acting as Agent under a Finance Agreement (the "Finance Agreement") dated as of the date hereof (said Agent, so acting, being hereinafter called the "Assignee"), and each of BETHLEHEM STEEL CORPORATION, GENERAL MOTORS CORPORATION (Electro-Motive Division) and PULLMAN INCORPORATED (Pullman Standard Division) (hereinafter called individually the "Builder" and collectively the "Builders").

The Builders and Louisiana & Arkansas Railway Company (the "Railroad"), and The Kansas City Southern Railway Company (the "Guarantor") have entered into a Conditional Sale Agreement dated as of the date hereof (the "CSA"), covering the construction, sale and delivery, on the conditions therein set forth, by the Builders, severally, and the purchase by the Railroad of the railroad equipment described in Schedule B to the CSA (said equipment being hereinafter called the "Equipment" and the Equipment constructed, sold and delivered by each Builder being hereinafter sometimes called "such Builder's Equipment" or "its Equipment");

NOW, THEREFORE, THIS AGREEMENT AND ASSIGNMENT (hereinafter called this Assignment) WITNESSETH: That, in consideration of the sum of One Dollar (\$1) and other good and valuable consideration paid by the Assignee to each Builder, the receipt of which is hereby acknowledged, as well as of the mutual covenants herein contained:

SECTION 1. Each Builder hereby assigns, transfers and sets over unto the Assignee, its successors and assigns:

(a) all the right, title and interest of such Builder in and to each unit of Equipment when and as severally delivered to and accepted by the Railroad, subject to payment by the Assignee to such Builder of the amount required to be paid for such unit (other than amounts owing under supplemental invoices) pursuant to Section 4 hereof and/or by the Railroad pursuant to subparagraph (a) of the third paragraph of Article 4 of the CSA;

(b) all the right, title and interest of such Builder in and to the CSA (except the right to construct and deliver such Builder's Equipment and the right to

receive the payments specified in the third paragraph of Article 3 thereof, and in subparagraph (a) of the third paragraph of Article 4 thereof and the last paragraph of Article 16 thereof and reimbursements for taxes paid or incurred by such Builder as provided in Article 5 thereof), and in and to any and all amounts which may be or become due or owing by the Railroad to such Builder under the CSA in respect of the Purchase Price (as defined in the CSA) of the Equipment and interest thereon, and in and to any other sums becoming due from the Railroad under the CSA, other than those hereinabove excluded; and

(c) except as limited by subparagraph (b) hereof, all such Builder's rights, powers, privileges and remedies under the CSA;

without any recourse against such Builder for or on account of the failure of the Railroad to make any of the payments provided for in, or otherwise to comply with, any of the provisions of the CSA; provided, however, that this Assignment shall not subject the Assignee to, or transfer, or pass, or in any way affect or modify, the liability of such Builder to construct and deliver its Equipment in accordance with the CSA or with respect to its obligations contained or referred to in Article 15 of the CSA, or relieve the Railroad from its obligations to such Builder contained or referred to in Articles 2, 3, 4, 5, 14, 15 and 16 of the CSA, it being agreed that, notwithstanding this Assignment, or any subsequent assignment pursuant to the provisions of Article 16 of the CSA, all obligations of such Builder to the Railroad with respect to such Builder's Equipment shall be enforceable by the Railroad, its successors and assigns, against and only against such Builder. Each Builder hereby authorizes and empowers the Assignee, in the Assignee's own name or in the name of the Assignee's nominee, or in the name of and as attorney hereby irrevocably constituted for such Builder, to ask, demand, sue for, collect, receive and enforce any and all sums to which the Assignee is or may become entitled under this Assignment and to ask, demand, sue for and enforce compliance by the Railroad with the terms and agreements on its part to be performed under the CSA, but at the expense and liability and for the sole benefit of the Assignee.

SECTION 2. Each Builder agrees that it shall construct its Equipment in full accordance with the CSA and will deliver the same upon completion to the Railroad in accordance with the provisions of the CSA; and that, notwith-



standing this Assignment, it will perform and fully comply with each of and all the provisions of the CSA set forth to be performed and complied with by such Builder. Each Builder further agrees that it will warrant to the Assignee and the Railroad that, at the time of delivery of each unit of the Equipment of such Builder under the CSA, it had legal title to such unit and good and lawful right to sell such unit and that title to such unit was free of all claims, liens, security interests and other encumbrances (other than those created by the CSA and other than the rights of the Assignee under this Agreement); and each Builder further agrees that it will defend the title to each unit of its Equipment against the demands of all persons whomsoever based on claims originating prior to the delivery of such unit by such Builder under the CSA; all subject, however, to the provisions of the CSA and the rights of the Railroad thereunder. No Builder will deliver any of its Equipment to the Railroad under the CSA until the filings referred to in Article 20 of the CSA have been effected (the respective Builders and their counsel being entitled to rely on advice from special counsel for the Assignee that such filings have been effected).

SECTION 3. Each Builder agrees with the Assignee that in any suit or action brought by the Assignee under the CSA for any installment of, or interest on, indebtedness in respect of the Purchase Price of its Equipment or to enforce any provision of the CSA, such Builder will indemnify and hold harmless the Assignee from and against all expense, loss or damage suffered by reason of any defense, setoff or counterclaim whatsoever of the Railroad or the Guarantor arising out of a breach by such Builder of any obligation with respect to its Equipment or the construction, delivery or warranty thereof, or by reason of any defense, setoff or counterclaim whatsoever arising by reason of any other indebtedness or liability at any time owing to the Railroad or the Guarantor by such Builder. Each Builder's obligation so to indemnify and hold harmless the Assignee is conditional upon (a) the Assignee's timely motion or other appropriate action, on the basis of Article 16 of the CSA, to strike any defense, setoff or counterclaim asserted by the Railroad or the Guarantor in any such suit or action and (b) if the court or other body having jurisdiction in such suit or action denies such motion or other action and accepts such defense, setoff or counterclaim as a triable issue in such suit or action, the Assignee's prompt notification to such Builder of the asserted defense, setoff or counterclaim and the Assignee's giving such Builder the right, at such Builder's expense, to compromise, settle or defend against such defense, setoff or counterclaim.

Except in cases of articles or materials specified by the Railroad and not manufactured by such Builder and in cases of designs, systems, processes, formulae or combinations specified by the Railroad and not developed or purported to be developed by such Builder, each Builder agrees, except as otherwise specifically provided in the CSA, to indemnify, protect and hold harmless the Assignee from and against any and all liability, claims, costs, charges and expenses, including royalty payments and counsel fees, in any manner imposed upon or accruing against the Assignee or its assigns because of the use in or about the construction or operation of any of its Equipment of any design, system, process, formula, combination, article or material which infringes or is claimed to infringe on any patent or other right. The Assignee will give prompt notice to the appropriate Builder of any such liability or claim actually known to the Assignee and will give such Builder the right, at such Builder's expense, to compromise, settle or defend against such claim.

Each Builder agrees that any amounts payable to it by the Railroad with respect to its Equipment, whether pursuant to the CSA or otherwise, not hereby assigned to the Assignee, shall not be secured by any lien, charge or security interest upon the Equipment or any unit thereof (other than such as result from reassignment to such Builder in accordance with the last paragraph of Section 4 hereof).

SECTION 4. The Assignee, on each Closing Date fixed as provided in Article 4 of the CSA with respect to a Group (as defined in said Article 4) of the Equipment, shall pay to the Builder whose Equipment shall be included in such Group and to each Builder which shall submit a supplemental invoice for settlement on such Closing Date as contemplated in Article 4 of the CSA an amount equal to the portion of the Purchase Price of such Builder's Equipment as shown on the invoice or supplemental invoice therefor then being settled for which, under the terms of said Article 4, is payable in installments, provided that there shall have been delivered to the Assignee, as provided in Article 16 of the CSA, at least five business days (as defined in said Article 4) prior to such Closing Date, the following documents, in form and substance satisfactory to it and to its special counsel hereinafter mentioned, in such number of counterparts as may be reasonably requested.

(a) a bill of sale from such Builder to the Assignee transferring to the Assignee all right, title and interest of such Builder in such Builder's Equipment in such Group, warranting to the Assignee and to the Railroad that at the time of delivery of such units under the CSA

such Builder had legal title to such units and good and lawful right to sell such units and that such units were free of all claims, liens, security interests and other encumbrances (other than those created by the CSA and other than the rights of the Assignee under this Assignment), and covenanting to defend the title to such units against the demands of all persons whomsoever based on claims originating prior to the delivery of such units by such Builder under the CSA;

(b) a Certificate or Certificates of Acceptance with respect to the units of such Builder's Equipment in such Group as contemplated by Article 3 of the CSA;

(c) an invoice of such Builder for the units of such Builder's Equipment in such Group and any supplemental invoice for which settlement is then being made, in each case accompanied by or having endorsed thereon a certification by the Railroad as to the correctness of the prices stated therein;

(d) an opinion of Messrs. Cravath, Swaine & Moore, who are acting as special counsel for the Assignee and the Investors named in the Finance Agreement, dated as of such Closing Date, to the effect that (i) the Finance Agreement, assuming due authorization, execution and delivery by such Investors, has been duly authorized, executed and delivered and is a legal, valid and binding instrument, (ii) the CSA has been duly authorized, executed and delivered by the Railroad, the Guarantor and such Builder and is a legal, valid and binding instrument, enforceable in accordance with its terms, (iii) this Assignment has been duly authorized, executed and delivered by such Builder and is a legal, valid and binding instrument enforceable against such Builder in accordance with its terms, (iv) the Assignee is vested with all the rights, titles, interests, powers and privileges purported to be assigned to it by this Assignment, (v) the Assignee has a valid and perfected first security title in the units of the Equipment in such Group on the terms purported to be granted by the CSA, and such units, at the time of delivery thereof to the Railroad under the CSA, were free from all claims, liens, security interests and other encumbrances (other than those created by the CSA and other than the rights of such Builder excluded from this Assignment), (vi) no authorization of the Interstate Commerce Commission or any other governmental authority is necessary for the valid execution and delivery of the Finance Agreement, the CSA or this Assignment, or if any such

authority is necessary, it has been obtained (specifying the same), (vii) the CSA and this Assignment have been duly filed with the Interstate Commerce Commission in accordance with 49 U.S.C. § 11303 and no other filing or recordation is necessary for the protection of the rights of the Assignee in any state of the United States of America or in the District of Columbia and (viii) registration of the CSA, this Assignment or any certificates of interest delivered pursuant to the Finance Agreement is not required under the Securities Act of 1933, as amended, and qualification of an indenture with respect thereto is not required under the Trust Indenture Act of 1939, as amended; such opinion shall also state that said counsel have examined the opinions being delivered on such Closing Date pursuant to subparagraphs (e) and (f) of this Section 4, that such opinions are satisfactory in form and scope to said counsel and that said counsel believe that the Assignee, the Investors and they are justified in relying thereon; and such opinion shall also cover such other matters as may reasonably be requested by the Assignee or any such Investors;

(e) an opinion of counsel for the Railroad and the Guarantor, dated as of such Closing Date, to the effect set forth in clauses (i), (ii), (v), (vi), (vii) and (viii) of subparagraph (d) above (said counsel, in rendering such opinion, being permitted to assume due authorization, execution and delivery of any agreement by parties thereto other than the Railroad or the Guarantor) and stating that the Railroad and the Guarantor are duly organized and existing corporations in good standing under the laws of their jurisdiction of incorporation and have the full power and authority to own their properties and to carry on their business as conducted on the date thereof;

(f) an opinion of counsel for such Builder, dated as of such Closing Date, to the effect that (i) such Builder is a duly organized and existing corporation in good standing under the laws of its jurisdiction of incorporation and has the full power and authority to own its properties and to carry on its business as now conducted, (ii) the CSA has been duly authorized, executed and delivered by such Builder and, assuming due authorization, execution and delivery by the Railroad and the Guarantor, is a legal and valid instrument binding upon such Builder and enforceable against such Builder in accordance with its terms, (iii) this Assignment has been duly authorized, executed and delivered by such Builder and, assuming due authorization, execution and delivery by the Assignee,

is a legal and valid instrument binding upon such Builder, (iv) the Assignee is vested with all the rights, titles, interests, powers and privileges purported to be assigned to it by this Assignment and (v) the bill of sale referred to in subparagraph (a) of this paragraph has been duly authorized, executed and delivered by such Builder and is valid and effective to transfer all right, title and interest of such Builder in and to the units of Equipment in such Group to the Assignee, free from all claims, liens, security interests and other encumbrances of any nature (other than those created by the CSA and other than the rights of the Assignee under this Assignment) arising from, through or under such Builder;

(g) a certificate of an officer of the Railroad, dated as of such Closing Date, to the effect that (i) to the best of his knowledge and belief, no event of default, or event which with the lapse of time and/or demand provided for in the CSA could constitute an event of default, shall have occurred and is then continuing, and (ii) no Federal tax liens (including tax liens filed pursuant to Section 6323 of the Internal Revenue Code of 1954, as amended) and, to the best of his knowledge and belief, no other tax liens have been filed and are currently in effect which would adversely affect the title and security interest of the Assignee in the Equipment; and

(h) a receipt from such Builder for any payment (other than the payment being made by the Assignee pursuant to the first paragraph of this Section 4) required to be made on such Closing Date to such Builder with respect to the Equipment, unless such payment is made by the Assignee with funds furnished to it for that purpose by the Railroad;

provided, however, that with respect to Equipment for which a supplemental invoice is submitted by any Builder as permitted by Article 4 of the CSA, the only documents which must be delivered to the Assignee are those required by subparagraphs (c), (g)(i) and (h) of this Section 4.

In giving the opinions specified in subparagraphs (d), (e) and (f) of the first paragraph of this Section 4, counsel may qualify any opinion to the effect that any agreement is a legal, valid and binding instrument enforceable in accordance with its terms, by a general reference to limitations as to enforceability, imposed by bankruptcy, insol-

vency, reorganization, moratorium or other similar laws affecting the enforcement of creditors' rights generally. In giving the opinion specified in said subparagraphs (d) and (e), counsel may rely on the opinion of counsel for a Builder as to authorization, execution and delivery by such Builder of the documents executed by such Builder and as to title to the Equipment of such Builder at the time of delivery thereof under the CSA; in giving the opinion specified in said subparagraphs (d) or (f), counsel may rely as to any matter governed by the law of any jurisdiction other than New York or the United States on the opinion of counsel for such Builder or the opinion of counsel for the Railroad and the Guarantor as to such matter.

The obligation of the Assignee hereunder to make any payment provided for in this Section 4 is hereby expressly conditioned upon the Assignee's having on deposit, pursuant to the terms of the Finance Agreement, sufficient funds available thereunder to make such payment. The Assignee shall not be obligated to make payment at any time after the commencement of any proceedings specified in clause (c) or (d) of Article 17 of the CSA or if an event of default, or any event which with the lapse of time and/or demand provided for in the CSA could constitute an event of default, shall have occurred and be continuing under the CSA. In the event that the Assignee shall not make payment for any Group of the Equipment, the Assignee shall reassign to such Builder, without recourse to the Assignee, all right, title and interest of the Assignee in and to the units of the Equipment with respect to which payment has not been made by the Assignee (except payments with respect to supplemental invoices).

SECTION 5. The Assignee may assign all or any of its rights under the CSA. In the event of any such assignment any such subsequent or successive assignee shall, to the extent of such assignment, enjoy all the rights and privileges and be subject to all the obligations of the Assignee hereunder.

SECTION 6. Each Builder hereby:

(a) represents and warrants to the Assignee, its successors and assigns, that the CSA was duly authorized by it and lawfully executed and delivered by it for a valid consideration, that, assuming due authorization, execution and delivery by the Railroad and the Guarantor, the CSA is, insofar as such Builder is concerned, a valid and existing agreement binding upon it in accordance with its terms and that it is now in force without amendment thereto;

(b) agrees that it will from time to time and at all times, at the request of the Assignee or its successors or assigns, execute and deliver all such further instruments of assignment, transfer and assurance and do such further acts and things as may be necessary and appropriate in the premises to give effect to the provisions hereinabove set forth and more perfectly to confirm the rights, titles and interests hereby assigned and transferred to the Assignee or intended so to be; and

(c) agrees that, subsequent to the receipt by such Builder of the purchase price for its Equipment, except any portion thereof to be paid pursuant to any supplemental invoice, and upon request of the Assignee, its successors and assigns, it will execute any and all instruments which may be necessary or proper in order to discharge of record the CSA or any other instrument evidencing any interest of such Builder therein or in the Equipment of such Builder.

SECTION 7. The terms of this Assignment and all rights and obligations hereunder as between parties hereto shall be governed by the laws of the State of Illinois; provided, however, that the parties shall be entitled to all the rights conferred as provided in Article 24 of the CSA.

SECTION 8. The rights and obligations of the Builders under this Assignment are several in accordance with their interests and not joint. Accordingly, whenever this Assignment, by use of such designation as "each Builder", "such Builder" or other similar term, confers a right or imposes an obligation upon any Builder or its successor, such right or obligation shall be construed to accrue to or to be enforceable against only the specific Builder giving rise to such right or obligation and its successors as herein provided.

SECTION 9. The Assignee will deliver an executed counterpart of this Assignment to the Railroad and the Guarantor, which delivery shall constitute due notice of the assignment hereby made. Although this Assignment is dated for convenience as of the date first set forth above, the actual date or dates of execution hereof by the parties hereto is or are, respectively, the date or dates stated in the acknowledgments hereto annexed.

SECTION 10. This Assignment may be executed in

any number of counterparts, all of which together shall constitute a single instrument.

IN WITNESS WHEREOF, the parties hereto, each pursuant to due corporate authority, have caused this instrument to be executed in their respective corporate names by duly authorized officers, and their respective corporate seals to be hereunto affixed and duly attested, all as of the date first above written.

BETHLEHEM STEEL CORPORATION,

by

\_\_\_\_\_  
Vice President

[Corporate Seal]

Attest:

\_\_\_\_\_  
Assistant Secretary


GENERAL MOTORS CORPORATION  
(Electro-Motive Division),

by

  
\_\_\_\_\_  
Vice President

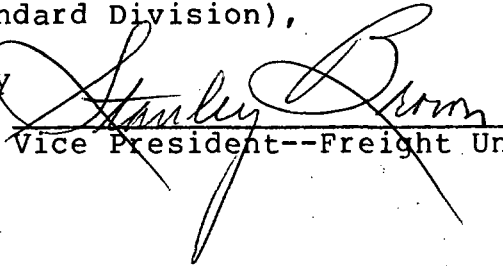
[Corporate Seal]

Attest:

  
\_\_\_\_\_  
Assistant Secretary

PULLMAN INCORPORATED (Pullman  
Standard Division),

by

  
\_\_\_\_\_  
Vice President--Freight Unit

[Corporate Seal]

Attest:

  
\_\_\_\_\_  
Assistant Secretary





CHEMICAL BANK, as Agent,

by

A handwritten signature in dark ink, appearing to read "R. H. Lacey", is written over a horizontal line.

Senior Trust Officer

[Corporate Seal]

Attest:

A handwritten signature in dark ink, appearing to read "C. C. Smarten", is written over a horizontal line.

Assistant Secretary

ACKNOWLEDGMENT OF NOTICE OF ASSIGNMENT

LOUISIANA & ARKANSAS RAILWAY COMPANY and THE KANSAS SOUTHERN RAILWAY COMPANY each hereby acknowledges due notice of and consents to the assignment made by the foregoing Agreement and Assignment as of April 15, 1979.

LOUISIANA & ARKANSAS RAILWAY  
COMPANY,

by

  
Vice President

THE KANSAS CITY SOUTHERN  
RAILWAY COMPANY

by

  
Vice President

COMMONWEALTH OF PENNSYLVANIA, )  
 ) ss.:  
 COUNTY OF LEHIGH, )

On this            day of May 1979, before me personally appeared           , to me personally known, who, being by me duly sworn, says that he is a Vice President of BETHLEHEM STEEL CORPORATION, that one of the seals affixed to the foregoing instrument is the corporate seal of said Corporation, that said instrument was signed and sealed on behalf of said Corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said Corporation.

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Notary Public

[Notarial Seal]

My Commission expires

STATE OF ILLINOIS, )  
 ) ss.:  
 COUNTY OF COOK, )

On this 24<sup>TH</sup> day of May 1979, before me personally appeared P. K. HOGLUND, to me personally known, who, being by me duly sworn, says that he is a Vice President of GENERAL MOTORS CORPORATION (Electro-Motive Division), that one of the seals affixed to the foregoing instrument is the corporate seal of said Corporation, that said instrument was signed and sealed on behalf of said Corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said Corporation.

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Notary Public

[Notarial Seal]

My Commission expires JANUARY 17, 1983

STATE OF ILLINOIS, )  
 ) ss.:  
COUNTY OF COOK, )

On this 23rd day of May 1979, before me personally appeared Stanley Crown, to me personally known, who, being by me duly sworn, says that he is the Vice President--Freight Unit of PULLMAN INCORPORATED (Pullman Standard Division), that one of the seals affixed to the foregoing instrument is the corporate seal of said Corporation, that said instrument was signed and sealed on behalf of said Corporation by authority of its Board and he acknowledged that the execution of the foregoing instrument was the free act and deed of said Corporation.

*James K. Reston*  
Notary Public

[Notarial Seal]

My Commission expires

STATE OF NEW YORK, )  
 ) ss.:  
COUNTY OF NEW YORK,)

On this 22<sup>nd</sup> day of May 1979, before me personally appeared F. J. FARRELL, to me personally known, who, being by me duly sworn, says that he is a Senior Trust Officer of CHEMICAL BANK, that one of the seals affixed to the foregoing instrument is the corporate seal of said Corporation, that said instrument was signed and sealed on behalf of said Corporation by authority of its Board and he acknowledged that the execution of the foregoing instrument was the free act and deed of said Corporation.

Debra L. Carter  
Notary Public

[Notarial Seal]

My Commission expires

**SYLVIA LASKOW**  
Notary Public, State of New York  
No. 24-7436995  
Qualified in Kings County  
Certificate filed in New York County  
Commission Expires March 30, 1980